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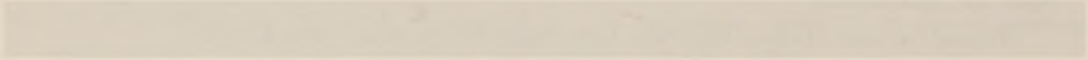
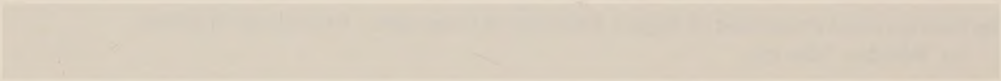
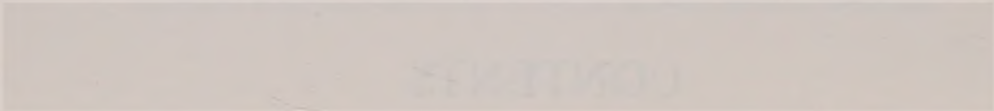
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GENERAL SECTION

INDEPENDENT TELEVISION IN BRITAIN

by BERNARD SENDALL

Deputy Director General, Independent Television Authority

The arrival of independent television in Britain was heralded by the passing of the Television Act in 1954. The purpose of the Act was to end the monopoly in television held by the British Broadcasting Corporation and introduce an additional service financed out of advertising revenue. The vigorous, not to say bitter, Parliamentary debates which preceded the Act make strange reading now that independent television has become so established a part of British life. My aim in this article is to describe the structure of the new television service and to outline the developments which in little more than three years have swept these controversies out of the stream of contemporary life into the backwaters of history.

The first I.T.A. transmitting station went on the air at Croydon, London, in mid-September, 1955, just over a year after the Act had become law. By mid-January, 1958, six stations—all of them are high power stations with an effective radiated power of 100 kW or more—were broadcasting programmes. When the Croydon station started broadcasting in September, 1955, it brought independent television to 190,000 homes: now it reaches 1,830,000 homes. Lichfield station now reaches another 1,015,000 homes, Winter Hill and Emley Moor stations 1,857,000, Black Hill station (Scotland) 370,000 and St. Hilary station (Wales) a further 218,000. By January, 1958, the total number of homes equipped to receive independent television had reached 5,204,000. In January, 1956, viewers in homes able to choose between independent television and B.B.C. programmes gave 62% of their viewing time to the independent service. By January, 1958, this proportion had risen to 74%.

All this was not achieved without strenuous exertion. For Britain at any rate the construction of six large television stations in three years is pretty fast going. Land has to be acquired, way-leaves cleared, roads made, installations designed and materials assembled and erected. When, in addition to these normal problems of construction, one is faced with experimentation in a wave-band new to Britain, with the design of multi-directional aerials to suit awkward population distri-

butions and international limitations, and with the creation of complex new line-links for the distribution of networked programmes in a country where telecommunications are already overloaded, the task assumes formidable proportions. Yet all was done without much fuss by a relatively small engineering force working in co-operation with the Post Office engineers and the installation contractors.

The overall control of this development was vested by the Television Act in an Independent Television Authority which was empowered to provide, for a period of ten years following the passing of the Act, "television broadcasting services, additional to those of the British Broadcasting Corporation and of high quality, both as to the transmission and as to the matter transmitted, for so much of the United Kingdom, the Isle of Man and the Channel Islands as may from time to time be reasonably practicable".

In practical terms the functions of the Authority can be summarised briefly as the establishment of television stations, the renting of broadcasting time on these stations to duly appointed programme contractors who provide programmes out of advertising revenues, and the general surveillance of these programmes and the advertising which accompanies them to see that the terms of the Television Act are observed.

The Authority itself consists of the Chairman (now Sir Ivone Kirkpatrick who was formerly Permanent Under Secretary of State for Foreign Affairs), the Deputy Chairman (Sir Ronald Matthews) and eight Members, three of whom have as their special care the interests of Scotland, Wales and Northern Ireland respectively. All Members of the Authority are appointed by the Postmaster General "from among persons appearing to him to be qualified for the office", and the Minister is required to satisfy himself that they have no financial or other interest in any advertising agency, or business concerned with the manufacture or sale of radio, television or other telegraphic equipment, or with any business connected with the provision of programmes or parts of programmes.



SIR IVONE KIRKPATRICK,
G.C.B., G.C.M.G.

Chairman of the Independent Television Authority since November, 1957. He retired from the diplomatic service earlier in the year. During the war years he was the Controller of the European Service of the B.B.C.

To fulfil its manifold duties the Authority employs a headquarters staff of about 80 people, administrative, technical, clerical and secretarial, headed by the Director General, Sir Robert Fraser. In addition to the headquarters office at 14 Princes Gate, London, there are small regional outposts in Birmingham, Manchester, Cardiff and Glasgow, and also, of course, there is the staff of the transmitting stations. Despite the very rapid expansion of its services, the Authority has always sought to keep its executive staff small in numbers and capable of finding quick solutions for a wide range of varied problems.

Advisory Committees

Like the B.B.C., the Authority draws voluntary advice and assistance from widely diverse sources. In particular, it was required, under Section 8 of the Act, to appoint or arrange for the assistance of representative advisory committees to give guidance on religious affairs, on advertising standards, and on matters concerning children and young persons. By the end of 1955 these bodies had been established and were working effectively.

With regard to religious matters, the assistance was sought of the Central Religious Advisory Committee, which represents the main streams of religious thought in Britain and acts in a similar capacity for the B.B.C. The Committee's acceptance (with the concurrence of the B.B.C.) of this new responsibility, and the constructive

interest it has taken through a small Religious Advisory Panel charged with giving day-to-day advice, has helped to bring about a rapid and striking development of religious broadcasting on independent television.

The Children's Advisory Committee represents the special viewpoints of a variety of public and corporate bodies associated with the education and welfare of children and young persons. It, too, has already taken an active part in guiding the decisions of the Authority and the contractors in such important matters as, for example, the introduction of the first television programmes for schools in Britain.

The Advertising Advisory Committee, which held its first meeting in January, 1955, had the great responsibility of drawing up a code of advertising standards for independent television. The "Principles of Television Advertising" were compiled and published before the first programme transmissions began and they have stood the test of three whirlwind years of advertising progress. The Committee continues to meet at intervals to advise the Authority on all questions relating to advertising standards and to interpret the code in difficult cases. Its influence on television advertising practice has been both profound and beneficial.

Apart from these three statutory bodies, whose advice is to all intents and purposes binding on the Authority and the programme companies, certain other committees have been set up to help forward the work of the Au-



SIR ROBERT FRASER,
O.B.E.

Director General of the Independent Television Authority. Before his appointment on the formation of the Authority in 1954, Sir Robert was Director General of the Central Office of Information. During the war he served in the Ministry of Information.



SIR KENNETH CLARK,
K.C.B.

The first Chairman of the Independent Television Authority who retired in August, 1957. Concurrently with his chairmanship of the Authority he was Chairman of the Arts Council of Great Britain. He is a distinguished art scholar and is at present appearing in a series of independent television programmes devoted to the study of the arts in general.

thority. There is the Standing Consultative Committee which meets under the chairmanship of the Director General and on which all the programme companies are represented. It is through the machinery of this Committee that the main policy questions involving both the Authority and the companies are dealt with, and it has done much to establish a common pattern of procedure and policy in applying the provisions of the Television Act and of the contracts to everyday problems. There is also a Scottish Advisory Committee, appointed to assist the Scottish Member of the Authority in ascertaining Scottish opinion on television policy: this body, too, is proving valuable in bringing to light divergences in regional and national attitudes towards different types of programmes.

The Programme Contractors

The programmes broadcast from the Authority's stations are provided by programme companies whose conditions of appointment are governed by the terms of the Television Act. These conditions are designed, broadly speaking, to ensure that the programmes they provide comply with the stringent requirements of the Act; that control of the contracting companies remains within the United Kingdom; that they do not fall into

the hands of persons or corporate bodies associated with advertising; that they remain completely independent of each other both as to finance and as to control, and that there is adequate competition between them for the provision of programmes for transmission by the Authority.

All these safeguards are written into the contracts entered into between the Authority and the programme companies.

In the first instance the Authority appointed four companies, now known as the "parent" companies, as programme contractors:—

Associated-Rediffusion Ltd. (A-R) (1955) which provides programmes in London from Mondays to Fridays;

Associated Television Ltd. (ATV) (1955) which provides programmes in London on Saturdays and Sundays, and in the Midlands from Mondays to Fridays;

A.B.C. Television Ltd. (ABC) (1956) which provides programmes in the Midlands and the North of England on Saturdays and Sundays;

Granada T.V. Network Ltd. (Granada) (1956) which provides programmes in the North of England from Mondays to Fridays.

These four companies together established a special non-profitmaking subsidiary company, in which later companies also took an interest as and when they were appointed. This was:—

Independent Television News Ltd. (ITN) which provides the main news bulletins for all I.T.A. areas.

The device of dividing weekday from weekend programming has ensured that no one company has had a monopoly of programme provision in the four largest areas of the country. Another form of competition was created by the I.T.V. Network; that is to say by providing facilities for the relaying of one contractor's programmes in the services of several others. Since an originating company recovers from the receiving companies a proportionate share of its outlay, the competition to produce programmes of network quality is intense.

During the past two years contracts have been awarded to four new companies, namely:—

Scottish Television Ltd. (STV) (1956) which provides programmes in Central Scotland during the whole week;

Independent Television for South Wales and the West of England Ltd. (TWW) (1956) which provides programmes in South Wales and the West of England during the whole week;

Southern Television Ltd. (1957) which will shortly be providing programmes for the South of England and the Isle of Wight during the whole week; and

Tyne-Tees Television Ltd. (1957) which will provide programmes for the North-East of England during the whole week.

The change of policy to full week programming in the case of the new companies reflects the relative smallness of their population coverage compared with that of the parent companies. The principal task of these new companies, which serve areas geographically dispersed from the main areas of heavy population served by the parent companies, is to develop distinctively regional programmes which will supplement the main supply from the network; but they too aspire to become network providers as well as takers.

The close and friendly collaboration established between the Authority and the companies has been one of the pleasing features of the work of the past three years. Press and public interest in what was being done to guide and, when necessary, control the activities of the companies might have presented the Authority with an opportunity, if it were so minded, to build up its own public prestige at the expense of that of the companies. The Authority, however, preferred to conduct its relationships with the companies so far as possible in private, and it has never regretted or wished to change this decision.

Programme Content

And now to programmes. Harsh things were said about "commercial" television when it was first suggested. Many people believed that the end of the B.B.C.'s monopoly meant sacrificing a great tradition of public service and that the influence of advertising interests would inevitably mean "pandering to the lowest common denominator of public taste", to quote what became one of the *clichés* of the opponents of competition. If these fears ever had any foundation they should have been dispelled by Section 3 of the Act, which lays down the responsibilities of the Authority itself in regard to programme content, with special reference, among other things, to the exclusion of anything which offends against good taste and decency or is likely to be offensive to public feeling, to the strict observance of impartiality in all political and industrial matters, and to the maintenance of a proper balance in subject matter and a high standard of quality.

In approaching the task of exercising its far-reaching powers under this section of the Act, the Authority considered that if as its first and foremost duty it appointed programme companies it could trust, the day-to-day measures necessary to implement these powers could be taken by agreement with the companies, acting as partners of the Authority in a collective enterprise. That is indeed the basis on which independent television has developed in Britain: great as is the diversity and rivalry between the companies they are all united with the Authority in a common awareness of what the Act

requires. The Authority's advice is often sought on programme projects likely to be affected by the provisions of the Act. Conversely, if, as sometimes happens, the Authority has reason to think that any programme proposals reported to it might not be completely in accord with the Act, the matter is discussed with the company concerned and settled with a minimum of formality. Sometimes when entirely new issues are involved, such as in the recent broadcasts about a by-election campaign, the Authority works in the closest touch with a company in formulating programme plans.

"A proper balance" in programming has been interpreted as meaning the maintenance of a reasonable proportion of informative, enlightening and cultural programmes as opposed to purely "entertainment" ones. The Authority must decide for itself what is a reasonable proportion, having regard to all the circumstances, including the financial position of the programme companies. The Authority's view on what is a desirable programme pattern is from time to time made known to the companies in general terms, and the Authority sometimes also gives an indication of the kinds of programme it would like to see provided. The initiative in actual programme planning rests with the companies themselves, who have in the last six months or so become increasingly successful in presenting serious programmes which have held large audiences. Their enterprise in this matter can be measured by the long list of successful "balance" programmes which appear each week: for example, news reporting in such programmes as "Roving Report" and "This Week" as well as in the News Bulletins; public affairs discussions in programmes like "Tell the People", "Free Speech", "Under Fire" and "Youth Wants to Know"; topical commentaries such as "What the Papers Say"; religious presentations such as the famous "About Religion"; and also of course the well-established television broadcasts for schools.

Taking independent television as a whole there are at the present time about 18 hours of "balance" programmes in a total weekly output of some 55 to 60 hours, inclusive of outside broadcasts. The programmes make nonsense of any suggestion that private enterprise television necessarily means chasing the largest possible audience all of the time to the exclusion of all other interests. Any broadcasting service, whether it be public or private enterprise, likes its programmes to be a popular success and it is dishonest to pretend otherwise: but it is mistaken to suppose that the instinct for serving the public good belongs to public bodies alone.

Another aspect of balanced programming which the Authority has watched closely is the proportion of time devoted to local productions which provide an outlet for regional variations in politics, humour, drama, music and dancing. Regional differences in character and custom add colour and spice to the life of any nation, and the Authority sets out to foster these qualities as much as possible through the medium of programmes

with a regional flavour. A great deal has been done to reduce the dominance of London as a centre of television production; well-equipped, busy studios already exist in Manchester, Birmingham, Glasgow and Cardiff and others are under construction in Southampton and Newcastle-upon-Tyne.

Advertising

I have already described the work of the I.T.A.'s Advertising Advisory Committee in laying down and maintaining advertising standards for television. But this is by no means the whole story since, under the Television Act, the control of advertising is one of the most important functions of the Authority. It is rightly so, because television brings advertising straight into the home and this peculiar intimacy presents problems which are not present in advertising in the press, on posters and elsewhere. Out of the experience of the last 2½ years the Authority and the programme companies have built up a code of rules and practices under which the various provisions of the Act are not only observed but clearly seen to be observed.

The Standing Consultative Committee which, as has been seen, is the main forum of consultation between the Authority and the companies has a sub-committee on advertising. In addition to this, the Television Programme Contractors' Association which represents all the programme companies has itself established machinery for consultation between its members and for the central scrutiny of all advertisements submitted to the companies by the advertising agents. The Authority itself does not in the ordinary way have direct dealings with advertisers or their agents, but it is constantly consulted by the companies about the day-to-day problems which arise and whenever new advertising ideas or techniques crop up which need to be considered in the light of the Act or of the rules drawn up by the Authority in pursuance of the Act.

The Act itself does not lay down detailed rules. Its main principles are few in number but fundamental in their effect. They can be summarized as follows:

- (i) Those parts of the programmes taken as a whole which are not themselves advertisements must contain nothing which states, suggests or implies that they have been supplied or suggested by any advertiser. (This is the paramount rule prohibiting sponsored programmes.)
- (ii) Every advertisement must be clearly distinguishable as such and recognisably separate from the rest of the programme. (This applies not only to advertisement "spots" but also to the longer advertising magazines or shoppers' guides which most programme companies introduce and which are perfectly legal under the terms of the Act.)
- (iii) The amount of time given to advertising shall not be so great as to detract from the value of the

programmes as a medium of entertainment, instruction and information. (It is in accordance with this principle that the Authority laid down before programme transmissions began that the amount of "spot" advertising should be limited to an average of six minutes in the hour in any one day. This rule still stands but it has undergone a series of refinements which have the effect in practice of limiting the total amount of advertising in any one hour, even at peak viewing times, to eight minutes.)

- (iv) Advertisements shall not be inserted otherwise than at the beginning or the end of the programme or in natural breaks therein. (The definition of "natural breaks" has been a favourite topic for the pedants, but in practice the problem has long since been solved by editorial and presentation techniques.)
- (v) Advertisements may not be inserted on behalf of any body the objects whereof are wholly or mainly of a religious or political nature, nor are advertisements allowed which are directed towards any religious or political end or have any relation to any industrial dispute. (The fundamental importance of this provision hardly needs stressing. Its interpretation occasionally presents the Authority with problems of great difficulty, since the Authority alone must decide whether a particular body is "wholly or mainly of a political nature" or whether a particular advertisement is "directed towards a political end". Only the greatest vigilance by the companies and by the Authority can ensure that this provision is wholly and properly observed.)

There are no protagonists for sponsored television in Britain either amongst the advertisers or amongst the programme companies. Television advertising has proved in the last year or so to be a huge success on the basis of "spot" advertisements, supplemented by the longer magazine type of advertisement in which several advertisers participate. The prohibition of sponsorship has been wholly beneficial in as much as each programme company has been enabled to retain full editorial control over its programmes.

Perhaps I can best conclude this brief account of television advertising in Britain on a buoyant statistical note. The estimated gross revenue (i.e. without allowing for agency and other discounts) of the I.T.V. programme companies in 1957 was approximately £32 million, a figure which was more than double that for 1956. There is as yet no sign that the trend will not continue upwards in 1958, particularly since the opening of further stations taken together with a steady rate of increase in the number of Band III "conversions" in existing areas will lead to a continuing rise in the number of I.T.V. homes.

What is all this advertising about? Primarily it is concerned with mass market goods of which foodstuffs account for about 22% of all T.V. advertising and house-

hold soaps and detergents about 12%. Chocolate and sweets come next with just under 8% and these are followed by non-alcoholic drinks at 7½%, medicines at just under 7% and hair preparations, alcoholic drinks and cigarettes and tobacco running more or less equal at between 4% and 5% for each category. It will be seen that small units of purchase predominate amongst the goods and services advertised.

Future Prospects

Independent television is now within reach of some 75% of the population of Great Britain, and, by pressing on with its station building programme, the Authority hopes to raise this figure to 95% or so in the course of the next two years. Meanwhile the number of homes with television is increasing steadily and the percentage of these homes capable of receiving I.T.A. continues to grow.

Thus far it is a fair and promising outlook, but the developments that lie beyond are already a subject of much discussion. Should a third television service be established using the Band III frequencies not yet allocated for television? If so, should this belong to B.B.C., I.T.A., or a new and separate organisation? Add to

these the even larger questions about the future standards of definition in Britain and the introduction of colour and it will be seen that the day when British independent television can lead a settled life, if it were ever disposed to do so, is not even on the horizon.

Conclusion

I have not attempted to conceal in this article that we in independent television are well pleased with our progress so far and are optimistic about the future. We believe we have made a good beginning but realise that we have still much to do and much to learn. What I think can now be said is that in Britain independent television is a success not only financially and in terms of popular appeal but also as an institution. There are other systems of combining public supervision and private enterprise in television, and those in Canada and Australia are equally worthy of attention; but it can be fairly claimed that out of the doubts, hesitations and compromises that brought forth the Television Act, a system of free enterprise under public oversight has produced for Britain a lively but responsible second television service which can seek comparison—without presumption though not without respect—with its older rival whose origin and upbringing was so vastly different.

THE ORIGIN, DEVELOPMENT AND PRESENT ORGANISATION OF SOUND AND TELEVISION BROADCASTING IN THE NETHERLANDS ¹

Sound Broadcasting

Dutch broadcasting had its origins in July 1923 in a comparatively small factory in Hilversum founded in 1918, where mechanical signalling apparatus, aeroplane transmitters and marine transmitters and receivers were manufactured. The first radio transmitter for commercial broadcasting purposes was built by this factory in 1920 for use at the Amsterdam Stock Exchange. Stock quotations and financial bulletins were broadcast daily and received by subscribers to this service on special receiving sets which were lent to them by the factory. In 1922 the same transmitter was used for the Radio Press Service conducted by the Vaz Dias Press Agency, Amsterdam, to broadcast news reports to some fifty provincial newspapers. In 1927 both the services, Stock Exchange and Press, came under Government control.

Another step was taken in 1925 with the building of a 500-watt broadcasting transmitter and the creation of a foundation known as the *Hilversumsche Draadloze Omroep*. The board of directors of this foundation was formed partly of staff members of the factory and partly of representatives of the small community of listeners. In order to promote the broadcasting of music and talks, however, the programmes had to be heard by the new listeners it was hoped to attract. Thus the same factory brought the first domestic radio sets on to the market in 1923 and by 1927 was manufacturing them in tens of thousands. Broadcasting developed rapidly; transmitting equipment and studio facilities improved and the quality of radio sets became better. The task of producing programmes was taken over in 1928 by the AVRO (*Algemeene Vereeniging Radio Omroep*), successor to the HDO mentioned above.

Between 1924 and 1926 a number of religious and political bodies in the Netherlands, realising the great possibilities of the new medium, founded broadcasting societies of their own, and here we might quote the old Dutch saying: "Put two Dutchmen in one room and they will start a debating club, but three Dutchmen together will start a political party". Besides the HDO (later AVRO), the Protestant, Socialist and Roman Catholic communities successively established their own broadcasting organisations. Thus there came into being the NCRV (*Nederlandsche Christelijke Radio Vereeniging*), the KRO (*Katholieke Radio Omroep*), the VARA (*Vereeniging van Arbeiders Radio Amateurs*) and the VPRO (*Vrijzinnig Protestantse Radio Omroep*). Each of these organisations obtained a broadcasting concession from the Government.

To increase transmission facilities, in 1927 the KRO and the NCRV built a second transmitter in Huizen, a small town in the neighbourhood of Hilversum. A broadcasting law of 1930 divided the available transmitting time equally among the societies, with the exception of the small VPRO which was allotted seven hours weekly. These two transmitters are no longer in operation in Hilversum and Huizen, but since 1940 a comparatively modern transmitting centre has been housed in Lopik (Utrecht), a more suitable place from the point of view of reception throughout the Netherlands. Nevertheless, the poor propagation qualities of the medium wavelengths allocated to the Netherlands made the erection of three auxiliary low-power transmitters necessary, operating on a shared wavelength and situated along the eastern boundary of the country. These AM-transmissions have been duplicated since 1955 by local FM-transmissions. Also in the Lopik area are housed the very modern shortwave transmitter and the main television transmitter.

Thanks to the support they received from their members, the broadcasting societies rapidly expanded. Their only income came from these members who made voluntary donations, as prior to 1940 a wireless licence or fee was unknown in the Netherlands. From 1924 to 1940 the members of the associations made great sacrifices of time and money to secure the necessary funds each year for their own society. The radio buildings in Hilversum, which were erected for the greater part before 1940, must surely inspire great respect in the beholder prompted by the spirit of sacrifice of the various denominations who built Dutch broadcasting. In spite of the diversity of religious and political convictions, the Dutch people form a unity. This characteristic became evident during the war which put an end to the independent life of the broadcasting societies, but the former leading personalities of the broadcasting world continued to meet and plan for the future. Greater coordination was considered necessary and a federation of broadcasting societies was founded.

With the coming of May 1945, the necessity for co-operation was apparent because on the one hand there were only two studios left that were properly equipped and these had to be shared among the societies, and on the other hand there was a movement afoot, small in size but temporarily influential, to establish a so-called national broadcasting system, ignoring the historical background. These difficulties gave rise to a somewhat chaotic situation which was cleared up when the societies regained full possession of their buildings and also their former authority. In January 1947 the four larger

¹ Text communicated by the Nederlandsche Radio-Unie.

societies stated that, in order to achieve greater cooperation and a more efficient use of the broadcasting installations, they proposed to pool their studios, apparatus, buildings, libraries and outside broadcast equipment. This meant that the studios and premises, while remaining the property of the various organisations, could be used by all of them.

On 10th February 1947 the four large organisations together with the smaller one (VPRO) founded the *Nederlandsche Radio-Unie* (NRU). Within this foundation the four main societies put their premises and material at the disposal of the joint organisation. In the field of programmes the societies were to continue to prepare their own programmes independently, but they were to be transmitted by the technical service of the NRU. Each society was to remain responsible for the content of its own programmes.

The new structure for the broadcasting service was regulated by circular letter from the Minister of Education, Arts and Science, dated 16th January 1947. In this letter it was also laid down that any organisation which already had a licence to broadcast for at least 60 hours a year might be admitted on request as a founder-member of the NRU. It was by virtue of this provision that the VPRO was able to join the Union. Other stipulations figuring in the circular letter include :

- (a) The supervision and control of broadcasting in general—excluding the operation of the transmitters and wire broadcasting for which the Postal Administration is responsible—are exercised by the Minister through a commissioner nominated by and responsible to him.
- (b) The Union is administered by a board consisting of two representatives from each of the four main associations and one from the VPRO.
- (c) The four main organisations together are to devote 780 hours per annum—one quarter of their broadcasting time—to so-called “general” programmes, of common interest, to be announced as “NRU combined programmes” or, in special circumstances such as national holidays, anniversaries, etc., as “NRU national programmes”. These programmes may never include anything which might offend the principles of any of the societies.
- (d) Part of the broadcasting time allocated is granted to the Churches which are authorised to cede their rights to an existing specialised organisation, or to one created for the purpose. Some Protestant Churches produce their own programmes, while others entrust theirs to the IKOR (*Interkerkelijk Overleg in Radio-aangelegenheden*—Inter-denominational Broadcasting Council) or the *Nederlands Convent van Kerken* (Netherlands Convent of Churches). The Roman Catholic Episcopate entrust their broadcasts to the KRO.
- (e) The Union and all bodies which have a claim to an allocation of broadcasting time under the terms

of the ministerial circular receive a grant each year from wireless licences based on estimates submitted by them, which must be approved by the Minister. The office of the Commissioner for Broadcasting Affairs, the Radio Council (an advisory body of the Minister), the programmes of the Overseas Broadcasting Service (a separate foundation in which the Government is represented) and the Post Office department dealing with transmitter costs, collection of licence fees and supervision are likewise financed by grants from licence revenue.

The licence fee is 12 Dutch florins per annum, which can be paid monthly by means of stamps obtainable at post offices.

A recent decree of the Minister of Education, Arts and Science stated that the political parties, with the exception of the Communist Party, would also be allocated time on the air.

A new broadcasting law has been in preparation since 1953 but has not passed the House of Representatives in its final form. No great changes are anticipated as the existing organisation has proved acceptable to the Dutch population.

Television

Investigations and experiments in the field of television had already been carried out by an industrial enterprise before 1940. This work was continued after the war and programmes were broadcast on an experimental television broadcasting licence issued by the Post Office. The rapid growth of television in many countries compelled the Netherlands authorities to take an interest in it too, in view of the cultural, economic and financial aspects of the new medium. Accordingly, the Minister of Education, Arts and Science and the Minister of Communications established jointly a television commission on 18th October 1948, which recommended adoption of the 625-line system, 25 pictures per second and 2/1 interlace, and considered it necessary to have six channels available. On the financial side the commission advised a two-year trial period during which the broadcasting societies pledged themselves to pay the programme costs out of their own income.

Pending the Government's decision, the societies founded on 31st May 1951 a coordinating body to which they gave the name of *Nederlandse Televisie Stichting* (NTS). The statutes of this foundation lay down that the societies will aim at cooperation in the field of television by sharing and regulating broadcasting time, coordinating programmes, equipping and operating the studios and arranging staff matters.

In September 1951 the NTS received governmental authorisation to start television broadcasts on 2nd October for an experimental period of two years. As proposed in the report of the television commission the broadcasting societies were to bear the cost of the pro-

grammes. The studios and their equipment, and the transmitter which was the property of the firm of Philips, were put at the disposal of the NTS and the Government agreed to supply the steel television mast. On 2nd June 1953 the Government decided that the television service should be extended and that it would itself contribute towards the costs. The trial period being over on 1st October 1953, the Government asked the broadcasting societies and the NTS to submit estimates on the basis of which the Government would make a grant. The television broadcasting licence was extended until 31st December 1955.

On 1st January 1956 a television decree was issued and the law introducing a television licence fee of 30 florins per annum came into force, thus establishing television in the Netherlands on a firm basis. In contrast to the NRU whose board is composed of members of the broadcasting societies only, the 1956 television decree prescribes for the board of the NTS thirteen members at the most, of whom not more than three will be nominated by the

Minister of Education, Arts and Science, and the remainder by the societies.

The aim of the foundation has remained the same since the start, and Article 3 of the statutes states that the NTS must guarantee cooperation between the broadcasting societies in the field of television. This cooperation covers the administration of the technical services, the coordination of programmes, the exchange of programmes with foreign organisations, the building, acquisition and furnishing of television studios and the regulating of staff matters in cooperation with the NRU. The financial resources consist of government grants and the net revenue from television licence fees in accordance with estimates submitted by the NTS and the broadcasting societies. Time on the air is allocated according to a scheme set out in a circular letter from the Minister dated 21st December 1956, under which the broadcasting societies, the NTS and the Churches receive an appropriate share of the available broadcasting time for their programmes.

LISTENER AND VIEWER STATISTICS EUROPEAN AREA

Country	Total licences current on 31st December 1957	including			Increase or decrease during 1957		Licences per 100 inhabitants	Remarks
		Free Licences	Wired Services	Television	Figures	Per cent.		
Algeria	406,771	1,717		11,250	+ 42,799	11.75	4.32	
Andorra * . . .	1,800**						30.00	* on 31.12.55 ** estimated number of receivers
Austria	1,838,855	24,159	11,672	16,324	+ 48,863	2.73	26.32	
Belgium	2,307,184	30,702	132,353	± 300,000*	+ 84,915	3.82	25.77	* unofficial figure
Cyprus	78,060	2,000		60	+ 2,060	2.71	14.37	
Czechoslovakia .	3,323,208			172,782	+ 715,208*	27.42		* increase 1954-57
Denmark	1,550,861	146,984		113,360	+ 129,737	41.44	34.52	
Egypt *	850,000						3.70	* on 31.12.56
Finland	1,121,493	9,616			45,761	4.25	25.48	
France	10,881,235	607,169		683,229	+ 723,214	7.12	24.73	
Germany (FR) .	14,400,244	579,366	133,629	1,211,935	+ 588,916	4.26	27.12	
Germany (DR) *	5,396,847			148,847				* on 30.11.57
Gibraltar	4,583	31			— 351	— 7.11	17.62	
Greece	545,366				+ 55,739*	11.38	6.81	* increase 1955-1957
Hungary * . . .	1,236,000			5,000**			12.75	* on 31.12.54 — UN Stat. Yearbook ** unofficial figure, end 1957
Iceland	44,500	307*			+ 56	0.12	27.40	* in 1956
Ireland	477,129	2,797			+ 15,974	3.46	16.46	
Israel	354,489	5,146			+ 27,193	8.30	18.04	
Italy	6,758,824	75,033		674,401	+ 452,376	7.17	13.64	
Jordan	59,103				+ 19,414	48.90	3.84	
Libya *	17,498	5,170					1.55	* on 31.12.55
Liechtenstein . .	3,175	7	329	88	+ 161	5.34	20.09	
Luxembourg . .	88,893	286		1,584	+ 4,427	5.24	28.32	
Malta	57,903	31	43,264*	1,325	+ 1,087	1.91	18.30	* on 31.12.56
Morocco	431,350	1,702			+ 12,619	3.01	4.93	
Netherlands . .	3,127,637	118,120	526,145	239,019	+ 249,409	8.66	28.25	
Norway	984,713	11,729		120	+ 16,601	1.71	28.57	
Poland	4,027,503	9,090	1,572,022	22,142	+ 402,672	11.10	14.34	
Portugal	595,521	2,075		999*	+ 61,468	11.50	6.72	* on 31.7.57
Saar	233,894			8-10,000	— 956	— 3.98	22.95	
San Marino . .	1,910			210	80	4.37	13.46	
Spain	2,104,827			± 8,000*	+ 265,882	14.45	7.14	* unofficial figure
Sweden	2,695,029	1,498		86,790	+ 147,408	5.78	36.71	
Switzerland . .	1,344,832	5,117	309,258	31,374	+ 52,407	4.05	26.26	
Tunisia	107,706				+ 21,299*	24.65	2.92	* increase 1953-57
Turkey *	1,082,684				+ 35,441	3.38	4.50	* on 30.9.57
United Kingdom	14,653,777	62,126	1,024,033	7,760,794	+ 219,650	1.52	29.10	
USSR *	31,000,000			1,324,000				* unofficial figures for 31.12.56
(Europe + Asia)								
Yugoslavia . . .	890,168	22,149		± 4,000	+ 193,559	27.78	4.88	

NEWS AND INFORMATION

INTERNATIONAL

CALENDAR OF INTERNATIONAL CONFERENCES AND MEETINGS
CONCERNED WITH BROADCASTING

1958		APRIL	
26-29 April	EBU	Administrative Council, 18th Meeting	Hilversum
		MAY	
2-18 May	EBU	1958 Eurovision Grand Prix of Television Films	Cannes
8 May		World Red Cross Day	
13-17 May	IOC	International Olympic Committee, 54th Session	Tokyo
28-31 May	EBU	Bureau of the Legal Committee, 20th Meeting	Turin
		JUNE	
9-14 June		International Society of Contemporary Music, Congress and Annual Festival	Strasbourg
15-21 June		International Council for Educational Films, General Meeting	The Hague
23-28 June	IMS	International Musicological Society, 7th Congress	Cologne
		JULY	
12-20 July		Fédération Internationale des Jeunesses Musicales, 13th Congress	Brussels
		JULY-AUGUST	
28 July-2 August	IFMC ¹	General Assembly and International Conference on Folk Dancing and Folk Music	Liège
		SEPTEMBER	
22-26 September	EBU	Working Parties GTV/1 and GTV/2	Wiesbaden
27 September	„	Bureau of the Programme Committee, 12th Meeting	„
29 September	„	Programme Committee, 6th Plenary Session	„
Date not yet fixed	„	Legal Committee, 9th Plenary Session	Stuttgart
		OCTOBER	
24 October-early November	IMC	International Music Council, 7th General Assembly, Congress and Festival of Music ²	Paris
25-28 October	EBU	Administrative Council, 19th Meeting	Geneva
		NOVEMBER	
3 November-3 December	UNESCO	General Conference, 10th Session	Paris
22-24 November	EBU	General Assembly, 9th Ordinary Session	Munich

¹ IFMC = International Folk Music Council² See item on page 14.

U.N.E.S.C.O.

Television Programmes on the International Geophysical Year. — Film and television producers of many nations are recording various aspects of the research being undertaken for the International Geophysical Year, and as it is difficult for a single country to give a complete picture of operations on so vast a scale Unesco is making a survey of material under preparation in each of its member states. This information is being passed on to television stations throughout the world in order to encourage direct exchanges of films and television programmes.

Fifteen countries have already indicated that they are preparing or have purchased films or television programmes on the International Geophysical Year. Among the twelve countries which have already announced television shows, the United Kingdom, for example, has produced an important programme devoted to IGY research generally. Switzerland has broadcast two television programmes, one on research equipment for the Antarctic and the other on glaciology work on the Jungfrau. In Belgium, three television films have been produced with the assistance of national institutions taking part in IGY research, and a fourth has been made on the North Pole explorer, Adrien de Gerlache. The Czechoslovak television network has made a short film which is to be followed by several others.

At the end of the International Geophysical Year, Unesco intends to gather together as much television and film documentation as possible in order to produce a full-length film on this international scientific project.

INTERNATIONAL CHAMBER OF COMMERCE

Commission on Advertising: Report on Commercial Television. — The Commission on Advertising of the ICC, which met in Paris last September, decided that the reports which had been submitted to it on the organisation, functioning and importance of commercial television in Canada, the United Kingdom and the United States should be completed by two notes from Finland and the Federal Republic of Germany, combined into a single document and published by the ICC. The Commission considered that these reports contained some valuable arguing points to help the professional associations of other countries in their efforts to persuade public authorities to authorise or extend commercial television.

The combined report was issued by the ICC in February and, apart from the descriptions of commercial television in the five countries above mentioned, also gives a brief indication of the state of the commercial service in a number of other countries. It further includes the text of a resolution on television advertising passed by the Council of the ICC in October 1957, as follows:

“The International Chamber of Commerce stresses that every means of mass communication should be available for

the development of sales and the reduction of final costs through better marketing in the common interest of producers and consumers.

The ICC notes that, in the light of knowledge of achievements recorded in the United States, Canada and the United Kingdom, a number of countries are considering the introduction or extension of television advertising.

The ICC recommends that, with a view to facilitating these developments, steps be taken to assemble evidence from experience gained in the United States, Canada and the United Kingdom as to whether the use of television advertising aids the efficiency of marketing and is acceptable to the majority of the public.”

INTERNATIONAL MUSIC COUNCIL

International Congress and Festival of Music. —

The IMC is preparing for an international congress and a festival of music to be held in Paris in October and November next, in connection with its Seventh General Assembly, the inauguration of Unesco's permanent headquarters and the tenth session of the Unesco General Conference. The congress will be attended by eminent specialists who will study the common sources of music and the influence of technical media on the growth of the different musical traditions of the countries of East and West (see *EBU Bulletin* No. 45, p. 568). The festival will illustrate the theme of the congress, and there will be performances by musical ensembles from Asia, Europe and America.

Dissemination of Works by Contemporary Composers. — A brief account was given, on page 436 of *EBU Bulletin* No. 44, of the selection of contemporary works recommended for broadcasting during the 1957-58 season. The five works chosen as being foremost among those which had figured in the programmes for the previous season were: *Ritornella*, for orchestra, by Ingvar Lidholm (Sweden); *Fourth Concerto for Strings*, by Goffredo Petrassi (Italy); *Concerto for String Orchestra*, by Hilding Rosenberg (Sweden); *Dance Suite, for Clarinet, Violoncello and Percussion*, by Earl Birger Blomdahl (Sweden); and *String Quartet*, by Irving Fine (USA). These works will now be included in the ordinary musical programmes of the various broadcasting organisations, alongside works of the classical and romantic repertoires.

In addition, in connection with the “International Rostrum of Composers”, 41 works by contemporary composers from Belgium, France, Hungary, Italy, Japan, Luxembourg, Netherlands, Poland, Rumania, Sweden, Switzerland, the USA and Yugoslavia were selected and distributed over 13 programmes—five of symphonic music, three of music for smaller orchestras, and five of chamber music. Sixteen broadcasting organisations from 14 countries assisted in the planning of these programmes, which are being performed during the current season by local musicians at public concerts broadcast by the radio stations. It is hoped that 49 concerts of these programmes will have been given by the end of the season.

NATIONAL

AUSTRALIA

Experimental Television Programmes for Schools.

— The Australian Broadcasting Commission launched experimental broadcasts for schools in Melbourne and Sydney in February. All programmes are being tele-recorded and exchanged, giving two half-hours a week for the twelve weeks of the experiment. They are being repeated in the evening for the benefit of other teachers and also for parents and the children themselves.

Selected schools have been lent television sets by the Electrical and Radio Development Association and it is expected that others owning sets will be joining in the experiment voluntarily.

Melbourne has prepared a nature series with the cooperation of a well-known naturalist and a science series in which children are introduced to the principles of science and will learn, for example, how weather reports are made. Sydney is concentrating on social studies which will introduce the children to current affairs, give a glimpse of careers open to them, and show how the design of everyday objects can be good or bad.

A class and a teacher are being chosen to view each programme and write a report for the ABC. Other teachers viewing are also being asked for their criticism of the programmes.

CANADA

Radio and Television Sets in Canadian Households.

— Every year the Dominion Bureau of Statistics undertakes a survey into the distribution of radio and television sets in households, and the results of the enquiry carried out last May show that, of Canada's 4,055,000 households, 3,894,000 had radio receivers and 2,536,000 had television sets. Of the 3,894,000 households with radio sets, 2,894,000 had one set, 739,000 had two, 188,000 had three and 73,000 had more than three.

Of the 2,536,000 television households, 2,464,000 also had radio receivers.

There were 2,435,000 households with cars at the time, and of these 2,200,000 had one car, 963,000 of them fitted with radio sets. Households with two cars numbered 235,000, and 175,000 of these cars had radio sets.

During 1957, 470,823 television receivers were sold to Canadian households, compared with 612,871 in 1956, according to figures quoted by *Broadcasting* from the Radio-Electronics-Television Manufacturers Association of Canada. Sales were highest in October (70,537). Radio set sales were up slightly over the previous year—577,930 as against 577,205. The number of portable radio sets sold rose from 43,380 to 57,700, and the number of car sets sold dropped to 122,908 from 130,435 in 1956. Ontario accounted for 175,007 television sets and 265,932 radio sets out of the total number sold.

Broadcast Revenue and Expenditure in 1956. —

Figures for the entire Canadian broadcasting industry have been assembled by the Dominion Bureau of Statistics and are summarised here from *Broadcasting* and the Canadian Broadcasting Corporation's *Audience Research Bulletin*. They show that in 1956 Canada's 160 independent radio stations had a total gross income of \$39,001,495 and total expenses of \$31,969,323, leaving a net income of \$7,032,172. The figures for the 27 independent television stations in operation in 1956 are: gross income, \$13,008,951; total expenses, \$11,582,963; net income, \$1,442,553.

Figures are also given for the official Canadian Broadcasting Corporation for the year and show gross income of \$15,189,124 for its radio operations, expenses of \$14,986,825, and a net income of \$202,299. The CBC's television operations had a gross income of \$43,420,465 and total expenses of \$45,183,976, leaving a deficit of \$1,763,511.

The income received by private stations from television advertising in 1956 amounted to \$12,352,000, approximately half of which was obtained from national and a third from local advertising. The CBC derived most of its advertising income from network advertising, \$14,144,000 out of a total of \$18,485,000 for the year.

From the table of expenditures for the industry, including CBC and independently-owned radio and television stations, it can be seen that the average number of employees during the year was 6,796 for radio and 3,702 for television stations, total salaries amounting to \$40,115,689 and total artists' fees to \$10,525,260.

FRANCE

First Results of Reorganisation of RTF Programmes. —

The RTF's new programmes¹ which were introduced by the Director-General, Mr. Gabriel Delaunay, have been on the air since 29th December. In answer to an appeal from the *Direction*, listeners have been stating their opinions on the changes and the number of letters received in January and February 1958 was double that received in the same two months of 1957. In spite of the reservations made with regard to frequency modulation in 528 letters, the percentage of listeners registering approval reached a figure never before achieved (76%). In addition, 2000 questionnaires were addressed to correspondents in every French department. All these letters and replies were studied and analysed and a synthesis prepared giving the number of approvals and disapprovals for each broadcast. On the basis of this synthesis drawn up after the first two months some slight modifications were introduced on 30th March. Nothing

¹ See *EBU Review*, No. 47 B, page 18.

in the nature of a reform was made but rather a simple attempt to meet the wishes of the majority of the listeners.

Among the changes was the decision to cut down on commentaries when introducing artists or presenting gramophone record programmes. There is a monitoring service in operation and producers who exaggerate in this respect now run the risk of having their programmes suspended. The times of the news bulletins in the middle of the day have been altered in answer to requests from the majority of listeners. The bulletin previously heard on *France I* at 1315h. has been moved forward to 1300h. and, to avoid having two news bulletins at the same time on different programmes, the mid-day bulletin on *France III* is now being broadcast at 1200 h. instead of 1300h. as previously.

Other changes concern the schedule of the daily FM music programme (weekdays from 1700 h. to 2310 h., Saturdays up to 2400 h., and Sundays from 1745 h. to 2400 h.) the weather reports and a small number of individual programmes.

FRANCE — UNITED STATES

American Awards to the RTF. — The RTF International Exchanges Service, whose director is Mr. Michel Robida, has recently been awarded a diploma by the National Association of Educational Broadcasters (NAEB). As mentioned in *EBU Bulletin* No. 35 (page 75), the RTF was already awarded a prize by the NAEB in 1955 for its broadcasts to the USA.

The Exchange Service sends each week to the NAEB approximately four hours of programmes specially produced with the intention of encouraging the spread of French culture among the American public. The recent distinction won by the RTF covers three types of programmes : (a) the weekly press review, (b) the regular series of French contemporary drama followed by a programme on French poetry, and (c) a series of 13 broadcasts under the title *Comment vivent les Français* in which well-known personalities talk about French customs, manners, legislation, literature, drama, education, and feminine interests.

GERMANY

Hessischer Rundfunk : 1956-57 Annual Report.

— Income for the year ended 31st March 1957 amounted to DM 34,374,480 (previous year : DM 31,806,995) and expenditure totalled DM 29,920,182 (previous year : DM 28,553,485); so that, after allocation of DM 4 million for building extensions, there remained an operational surplus of DM 454,298. Of this sum DM 400,000 will be paid into a capital fund and the remainder carried over into the 1957-58 financial year.

Programme hours during the year numbered 10,078 compared with 9,434 the year before. The Hessischer Rundfunk's contribution to the combined West German

television service amounted to 217 hours, a slight increase over the previous year.

The number of radio licence holders rose from 1,174,471 to 1,237,858, bringing the listener rate in Hessen to 26.41 % of the population or 79.49 % of households. Television licence holders increased from 40,966 to 78,695, i.e. 1.73 % of the population and 5.2 % of households. The ratio of listeners to viewers at the end of the financial year stood at 15 : 1 (Federal Republic average, 16 : 1)¹.

During the year the number of staff employed by the organisation rose from 878 to 906, largely due to television developments.

Sender Freies Berlin : 1958-59 Budget. — The organisation's total income for the year is estimated at DM 20.6 m., an increase of DM 2.3 m. largely due to the doubling of television licence revenue (DM 3.5 m. as against DM 1.85 m. in 1957-58). Income from commercial broadcasting is estimated at DM 1.7 m., a rise of DM 134,000 due to organisational changes.

Programme costs show a rise of DM 1,394,200 to reach DM 7.46 m., mostly in favour of the music department which extended its programme on 1st April 1958, and the television service which is beginning a regional programme on 1st July. Technical costs rise from DM 525,000 to DM 660,000, and staff costs from DM 6,245,450 to DM 6,910,400 in spite of the drop in the number of staff from 489 to 480.

JAPAN

Appointment of NHK President. — Mr. Hideo Nomura was appointed President of the Japan Broadcasting Corporation (NHK) on 14th January 1958 in succession to the late Dr. Nagata².

Mr. Nomura, who was born in 1888, has been a member of the NHK Programme Council and was at one time managing director of the Asahi Newspaper Company.

MONACO

Télé-Monte-Carlo Becomes Relay Station of the RTF. — The signing of an agreement in Monaco has just been announced in the French press whereby Télé-Monte-Carlo will broadcast relays of RTF programmes exclusively as from 1st October 1958, with the exception of a daily 15-minute programme devoted to questions of interest to the Monegasque population.

Télé-Monte-Carlo, owned by the company Images et Son, has been showing a heavy deficit for some time, varying between 5 and 25 million francs a month, and recently three-quarters of its staff were dismissed. In the circumstances, Images et Son had decided to sell out and

¹ On 1st March 1958 the Federal Republic average (including West Berlin) was 10 : 1.

² See *EBU Bulletin* No. 46, page 686.

an option had been taken by the director of the daily *Nice-Matin*. This option has now been ceded to the RTF.

The agreement whereby Télé-Monte-Carlo ceases to be a private commercial enterprise and becomes a relay station of the RTF is to remain in force for 20 years.

SPAIN

Regulations for the Importation of Films for Television. — The Decree of 23rd December 1957 to regulate the arrangements for the importation of films intended for television was published in the *Boletín Oficial del Estado* of 20th January 1958. It runs as follows:

The urgency of adapting our tariff legislation, conceived along traditional lines, to the modern needs to which television gives rise, makes it imperative to consider the desirability of making special tariff arrangements for the importation of films of an educational character and for all films intended for the national Television Service, particularly when it is borne in mind that the essential purpose of the broadcasting of sounds and images consists in the showing of newsreels and the films needed to round out its programmes, and it is therefore considered necessary to make special tariff arrangements for the importation of films to be shown by the Television Service.

Wherefore, and on the joint recommendation of the Ministers of the Treasury, Commerce, and Information and Travel, and after deliberation in the Council of Ministers, it is hereby decreed as follows:

Article 1. As a temporary measure, and while the Television Service is under State management, the following rules shall apply to the importation of films intended for the Spanish Television Service:

- (a) films cleared through Customs for the Spanish Television Service containing news and reports on current events which constitute the news service of its broadcasts are hereby granted exemption from the payment of customs duties, with a block import licence;
- (b) the importation of any other type of film suitable for projection on television is hereby authorised under the scheme for the suspension of payment of Customs duties provided for in Article 4 of the Act of 19 July 1944, applying Part 692 (4) of the current Customs tariff for the purpose of calculating the securities which must be furnished, and subject to the approval of the relevant departments of the Ministry of Commerce.

Article 2. The privileges granted in the preceding Article shall be conferred subject to compliance with the following conditions:

- (a) films falling under these provisions must be imported by the Directorate-General of Broadcasting and Television itself, and the Spanish Television Service shall have the sole and exclusive right to exploit them in any way; they may not be employed for other purposes nor may they be disposed of to any other organisation, institution or undertaking;
- (b) an indispensable prior condition for their clearance through Customs shall be the presentation of a certificate issued by the Directorate-General of Broadcasting and Television, testifying to the documentary or non-documentary character of the film in question, stating that it is intended for the Spanish Television Service, and specifying the period within which it

must be re-exported. The Customs, with the approval of the departments of the Ministry of Commerce, where required, shall proceed to grant clearance immediately.

Article 3. The Ministries of the Treasury, Commerce, and Information & Travel, jointly or separately, are hereby authorised to issue such regulations as may be deemed necessary to implement the provisions of this Decree.

SWITZERLAND

XIXth Century Music Panorama. — Radio-Genève presented recently under this title in its second programme on VHF a series of 10 broadcasts devoted to works of merit from the romantic repertoire that have been neglected. Many composers between 1800 and 1850 produced besides the works that are now familiar to us compositions that have gradually been forgotten. The distinguished musician and conductor, Samuel Baud-Bovy, who is also director of the Geneva Conservatoire, produced this first series of programmes with a view to familiarising listeners with these works, and in order to place them in their historical context, he provided the programmes with appropriate commentaries. Each broadcast covered a period of 5 years and among the works presented there was always a "work of reference", well known to most listeners and intended to give a better idea of the tendencies of the period. Thus Bellini, Liszt, Méhul, Spohr, Cherubini and Auber were to be found alongside Rossini, Beethoven, Berlioz, Haydn and others.

UNITED KINGDOM

New BBC Post. — The BBC has announced the creation of a new post under the authority of the Director of Television Broadcasting. The title of the post is Business Manager (Television Programmes). The Business Manager will be responsible for the Corporation's business relations with suppliers, in the United Kingdom and other countries, of filmed programmes for showing in the BBC's television service. An important part of his duties is to encourage the production of television films in Britain and other Commonwealth countries.

UNITED KINGDOM — U.S.S.R.

Anglo-Russian Television Features Exchange. — A recent agreement signed between Moscow State Television and Associated-Rediffusion for an interchange of 5-minute feature news items is now under way. The films made by Associated-Rediffusion are solely for Soviet consumption and are planned to show the British way of life. They are dubbed in Russian. The two-way exchange is an elastic agreement and both television stations are free to screen the other's films at any time.

UNITED KINGDOM — UNITED STATES

World-Wide Television News Service. — Independent Television News (ITN) and the Columbia Broadcasting System of the United States are to cooperate in supplying a daily film news service to television networks throughout the world, it was announced at the beginning of March.

Newsfilm from the United Kingdom, the Middle East, Europe and the Commonwealth will be supplied by ITN, and the CBS will cover North and South America, the Far East and the Pacific. The service is to have 400 cameramen throughout the world at its call.

UNITED STATES

Radio and Television Revenue in 1956. — The Federal Communications Commission has given the final figures concerning American radio and television revenue during 1956, with comparative figures for 1955 (see also *EBU Bulletin*, No. 42, p. 154).

	1956	1955
	(\$ millions)	
<i>Total Broadcast Revenues</i>		
Radio	\$480.6	\$453.4
Television	896.9	744.7
Industry total . . .	\$1,377.5	\$1,198.1
<i>Total Broadcast Expenses</i>		
Radio	\$431.4	\$407.4
Television	707.3	594.5
Industry total . . .	\$1,138.7	\$1,001.9
<i>Broadcast Income (before Federal income tax)</i>		
Radio	\$49.2	\$46.0
Television	189.6	150.2
Industry total . . .	\$238.8	\$196.2

Broadcasting explains that the 1956 radio data covers the operations of four nation-wide networks and three regional networks, 2,915 AM and AM-FM stations and 51 independent FM stations; the television data covers the operations of three networks and 474 stations.

Subscription Television to Await Approval from Congress. — *Broadcasting* reports that towards the end of February the Senate Interstate & Foreign Commerce Committee approved and sent back to the Senate a resolution asking the Federal Communications Commission not to authorise on-the-air subscription television¹ without the specific approval of Congress. The chairman of the Committee also announced that the Committee would soon be holding hearings on pending bills that would legislate against subscription television.

The resolution had been amended before coming to the Committee for consideration in such a way as to apply

only to on-the-air methods of "pay TV" (also known as "toll TV") and to exclude applicability to wire and community antenna subscription systems.

In a brief submitted to the Commerce Committee's executive session, the senator who introduced the resolution rebutted point by point the arguments generally advanced in favour of "pay TV". He maintained that the service might better be described as "narrowcasting" in that it would be available only to those willing to pay the fee. Instead of fostering competition, he said, it would force free television stations to convert to toll systems for economic reasons. He denied that better programming without commercials would be offered, and cited recent free television showings as examples of current high-quality fare.

A resolution passed at the beginning of February by the House Interstate & Foreign Commerce Committee asking for a delay in subscription television trials was immediately submitted to the Federal Communications Commission, who were urged to grant no authorisations for such trials until Congress had had an opportunity of studying the matter further.

The FCC has agreed to put off any action on applications to conduct trial subscription television operations for the time being.

Television Threat to the Cinema. — A report made for the Theatre Owners of America by Sindlinger & Co., business analyst, quoted by *Broadcasting*, points to the threat of financial failure for most of the country's cinemas and studios if feature films continue to be shown on television.

The report is based on a continuing survey of markets in all 48 states, and shows that since September 1957 motion pictures on television command one-quarter of the total of the nation's television viewing time; the public spends four times more hours a week looking at old films on television than in seeing new ones in cinemas. As a result, the report claims, there was a decrease of seven million in average weekly cinema attendance in the final quarter of 1957 compared with the same period of 1956. The analysis attributes this decline to the influx of top-quality old films on television during that quarter of 1957, and foresees that if the post-1948 Hollywood product is released to television it will be a "death blow" to the cinema industry.

Reviewing the impact of television on cinema attendance, the report reveals that the best 12 months for cinemas were from October 1954 to October 1955, giving as reasons the fact that the leading film stars had stayed off television and that only a few films were being included in the late television shows. By the autumn of 1955 the showing of film extracts and of programmes produced by the film studios began on television, and cinema attendance dropped by 17% or 20% in areas where these

¹ Subscription television entitles viewers who install the necessary equipment and pay a fee to a company to receive special programmes which are not available to other viewers.

programmes were shown and rose by 3%-7% over the comparable period of the previous year in areas where they were not shown.

By October 1957, when pre-1948 productions from most major film studios were being generally shown on television, the changes in cinema audiences became most noticeable. The average weekly attendance has fallen by 13.5%-17.5% during the last six months, as against the same period in 1956. The analysis shows that, simultaneously, the time devoted to old motion pictures on television rose from 86.5 million viewer hours a week before September to 426.2 million hours a week in December 1957.

Samuel Goldwyn, a leading independent film producer, disagreed with the conclusions of the report. He declared that good pictures on television did not keep people away from the cinemas; it was the bad pictures in the cinemas that put them off.

Educational Television Advances. — The following details, which have come to us in a report from the Joint Council on Educational Television, Washington, give a clear picture of the way in which educational television has developed since April, 1952, when the Federal Communications Commission reserved 242 television channel assignments (12% of the total) for non-commercial, educational use. Since then additional channel assignments have been reserved, making a total of 256 in January 1958. Of this number, 84 assignments are in the VHF band and 172 in the UHF band.

The number of educational television stations on the air grew as follows: 1953 — 1; 1954 — 8; 1955 — 17; 1956 — 22; 1957 — 28; 1958 — 42 predicted. The 28 stations (22 VHF and 6 UHF) on the air in December 1957 served an area with a total population of about 50 million people.

Thirty states in the U.S. have organisations investigating educational television and more than 40 communities are actively interested in developing facilities. In five years about 60 million dollars has been invested in educational television. This sum includes about \$28 million from foundations, large and small; more than \$7 million from state legislatures; about another \$7 million from public institutions of higher learning; \$5 million from Boards of Education and municipal governments; \$6 million from commercial broadcasters; and more than \$7 million from private institutions, individuals, business concerns other than broadcasters and a variety of other sources.

Between 1954 and 1957, the amount of programming on educational television stations more than tripled. The number of programme hours per week per station in 1957 averaged 31, ranging from 12½ to 72; 58% was live. In 1956 the average was 25 hours' programming per week. Children's programmes, both in-school and after-school,

jumped from 117 hours in 1956 to 178 hours in 1957, a rise from 25% to 27.5% of total programme time. In-school programmes increased from 69 hours to 109, and after-school programmes from 48 to 69 hours.

The most popular category in 1957 adult programming was music, followed by literature and philosophy, then science and industry. Of the total of 467 hours of adult programming, 45 were devoted to courses of which the majority gave college certificates for successful completion.

By December 1957, there were well over 100 closed circuit television installations in colleges, universities and public schools in nearly every state and the district of Columbia.

There are three national organisations concerned with educational television:

(a) *The Educational Television and Radio Center*, Ann Arbor, Michigan, which prepares and distributes educational television programmes for the network stations (7½ hours weekly), featuring great teachers, scholars, scientists and artists who would not otherwise be available to local stations. The Center also provides information for the general public and for the 106 national organisations—educational, professional, civic and service—which have formally resolved to support educational television. It seeks grants in aid of the programme service and supplies speakers and exhibits for meetings of national groups and educational television foundations, and it also encourages and coordinates research.

(b) *The Joint Council on Educational Television*, Washington, which is concerned with the preservation and use of educational television channels. The Council represents the educational television movement before the Federal Communications Commission, Congressional committees and other government agencies. It also gives legal and technical advice to any group seeking to establish an educational television channel. It serves as a source of information on television channel allocations and government regulations, and provides speakers and field workers for groups planning to set up stations.

(c) *The National Association of Educational Broadcasters*, Urbana, Illinois, which is an associate member of the EBU and of which a full description was given on pages 497-502 of *EBU Bulletin* No. 38. It is the oldest of the three central agencies and its membership includes educational institutions which own and operate educational radio and television stations, and institutions which produce programmes for educational television and radio. It gives legal, technical and administrative advice on the operation of educational television stations, supplies a radio network using taped programmes, conducts research into educational broadcasting and runs courses and conventions to encourage the exchange of information among stations.

BOOK REVIEWS

Die Welt Zeigt Ihr Gesicht, by Matthias Riehl.
Published by Argon Verlag G.m.b.H., Berlin. (Paper bound volume of some 190 pages, illustrated, price DM 9.80.)

This is a book on television ("today, tomorrow, and the day after") that is refreshingly different. In his first chapter the author strikes a note of intimacy that is sustained throughout the book. The story is his own personal discovery of television as an ordinary viewer and a professional critic. It is the work of a man who has given much thought to the subject and speaks his mind clearly. The result is immensely readable and the style is "anecdotic" and reflective rather than didactic.

The writer is interested primarily in the human side of the question. No theorist, Mr. Riehl is a student of human nature and each separate chapter forms a little story of its own. Starting with an ordinary human situation, he relates it to some aspect of television. His methods are varied and often highly ingenious. Thus, for example, the effects of the celebrated "Double or Quits" quiz game are vividly described in the story of a woman competitor, whose subject, incidentally, is television itself, thereby enabling the author to impart a considerable amount of factual information in a palatable and entertaining manner. The result is a nonetheless sobering and at times frankly horrifying picture of what may happen behind the scenes to the "victim" of this latest craze.

A serious note is struck in the chapter on television's indiscretion and curiosity. We are sharply reminded that the eye of television is gradually peering into every walk of life and though its usefulness in medicine and industry are evident—and the writer demonstrates this ably—a fearful glance into the future shows to what terrifying lengths this might be carried. In Mr. Riehl's view, television is the mirror of human society. In television, "the world shows its face", and the curiosity and indiscretion of television are merely the reflection of man's age-old hunger to know more about his neighbour. Curiosity is a human attribute but the danger is that it may become a morbid and an unhealthy one.

On the subject of television's impact on the lives of its audiences, the author is more concerned about what people are doing with this new powerful instrument than about what it is doing to the people who watch it. He unhesitatingly casts the responsibility on those who use television for the effects it produces. The crux of the matter, as he sees it, is in the simple fact that the viewer is under no compulsion to watch: either he turns the set on or he turns it off. Used with discretion, television can provide a wider general and practical knowledge of the world and its peoples, but it will never get to the heart of things or bring that deeper knowledge that other methods of instruction can impart.

Funk und Fernsehen, by Dr. Wilhelm Ohnesorge and Dr. Herman Roemmer. New, enlarged edition of the work published by Verlag Paul Müller, München. (One illustrated volume of some 270 pages, price DM 9.80.)

This comprehensive work on radio and television is in two parts—the first dealing with technical aspects and the second with general and programme questions.

The technical section recommends itself not only to the professional but also to the general reader, being written in such a way as to come well within the scope of those who have no particular, specialised knowledge of the subject. The presentation is clear, straightforward and interestingly illustrated by means of charts and diagrams. The history of radio is told through the story of its discoverers. Names such as Michael Faraday, Lord Kelvin, James Clerk Maxwell, Heinrich Hertz and Philipp Lenard are evoked and their work described. The first part ends with complete sections on the techniques and facilities of sound and television broadcasting.

The second part of the work takes us inside the broadcasting houses and television studios. A short history of broadcasting in Germany and a summary of the state of affairs in other countries is followed by a description of the various German radio and television stations. Short sections are devoted to the listener and the viewer and longer ones to the different categories of radio and television programmes with descriptions of how they are planned and produced. There are special chapters on the use of radio and television in communications, industry, science, medicine, meteorology, and even on their use in war time. The concluding section describes the activities of radio amateurs, particularly in Germany.

Television Production, by Harry Wayne McMahan.
Published by Hastings House, Publishers, Inc., 41 East 50th Street, New York 22. (One large bound illustrated volume of 231 pages, price \$7.50.)

Mr. McMahan is already well known in the field as the writer of *The Television Commercial*, issued recently in its revised and enlarged edition and subsequently translated into German¹. His latest work is a complete television handbook and dictionary combined. It describes the basic operations and creative techniques of television and defines the pertinent terms associated with them. Written to be read as a consecutive text, this manual might also be consulted as a dictionary of the 2,000-odd new words and expressions created by television in its

¹ See *EBU Bulletin* No. 43, page 368, and *EBU Review* No. 47 B, page 33.

first ten years. An alphabetical index has been carefully compiled for this last purpose.

As is to be expected from an expert like Mr. McMahan, the book is unique as a practical working tool both for the student and the professional. The style is simple and as non-technical as the subject will allow.

How You Can Broadcast Religion. — Compiled by C. T. Griswold and C. H. Schmitz and published by the National Council of the Churches of Christ in the USA, Broadcasting and Film Commission, 220 Fifth Avenue, New York 1. (One paper board volume of 128 pages, price \$2.00)

This is essentially a practical little book, giving guidance to those seeking to explore the possibilities offered by radio and television as a means of spreading Christianity. It contains ideas for programmes, advice on how to write and produce for radio and television, hints on personal manner and appearance, details on training facilities and some useful information about the broadcasting industry with particular emphasis on how it functions in the United States.

It is a workmanlike little volume written in short, crisp sentences. The lay-out suggests the text-book whose purpose is to get the facts over simply and clearly.

NOTICES

La Télévision Commerciale en Belgique, by Mr. Renaud Strivay. A roneographed project published by the Office de Télédiffusion, Belgium.

The Office de Télédiffusion, formerly the Commission Nationale Belge de Télévision Commerciale, was set up by the Société d'Etude et d'Expansion de la Télévision, of which Mr. Strivay is the Secretary-General¹. Writing here in the capacity of chairman of the Administrative Council of the Office, Mr. Strivay studies, with the help of a number of experts, the question of commercial television in Belgium. The situation in a wide variety of countries throughout the world and the different types of advertising at present used are described. The writer is in no doubt about the advantages of introducing such a system in Belgium and he lists some 20 points in its favour. It is not with Belgium alone that he is concerned, however, and he envisages a much wider application of commercial television than has hitherto been contemplated. His ultimate aim is "commercial Eurovision" and his immediate purpose to encourage the setting up of an international commercial television centre to act as a source of information and documentation, to study the problems raised by commercial television, and to offer

suggestions for international cooperation and assistance in the field of propaganda.

The writer invokes the growing emphasis on European cooperation in other spheres in support of his project and suggests that it would be worth while from the financial point of view alone, reducing costs considerably and increasing the size of audiences.

Mr. J.-M. Romiée, secretary of the Administrative Council of the Office de Télédiffusion, has also prepared a report on the legal aspects of the question, and this is followed by draft budgets for the first five years of operations of an independent service.

Radio-Télévision et Liberté, by Wladimir Porché, in the *Bulletin Intérieur de la Radiodiffusion-Télévision Française*, January 1958.

A colloquium on individual freedoms was held in Dijon from 18th to 20th October last at the instance of Professor M. R. Pinto of the Faculty of Law. Among the many reports dealing with the problem of the spread of information, the *Bulletin* selects that of Mr. Wladimir Porché, councillor of State and honorary director-general of the RTF.

It is not possible, Mr. Porché maintains, to speak of freedom of information in the field of radio and television with as much assurance as one can in the realms of printing and teletyping. The social limits of freedom make—or ought to make—a much more forcible impression upon the conscience of those who broadcast.

How, in the first place, is the notion of a "free" radio and television to be defined? Obviously the idea of a monopoly held by an individual, a party or a group of interests is out of the question. Between what might be called the selective liberalism of the type found in America, for example, and the State monopoly, there is the conception of the independent institution placed under State supervision, which is essentially English. In France, the broadcasting statute is still under consideration by Parliament, but it should be possible in the meantime, Mr. Porché feels, to regularise the use of the microphone and put an end to empiricism in broadcasting, which disarms the State itself and provides no guarantee of freedom.

In the field of news broadcasts, the imperative necessity for impartiality demands an interpretation that takes into account the nature of the information broadcast and the particular receptiveness of the audience. The task of the purveyor of information, the critic and the speaker in broadcasting, states Mr. Porché, and the specifications of the broadcasting organisation should lie at the cross-roads of four perspectives: freedom to express opinions; the right of the public to full and exact information; the power of the Government to intervene; the intellectual well-being of the individual and of society.

Broadcasting has its disciples, its parasites and its champions; it has too its disparagers, those who are

¹ See *EBU Bulletin*, No. 29, page 56.

perpetually denouncing the evils—both present and future—of the sound drug and the hypnosis produced by the dispenser of pictures calculated in the long run to put an end to thinking of any kind. It is easy to condemn and to deplore, but a negative attitude will never help men to master the forces set free by their inventions. The wireless spark can destroy, but it can also spread light, awaken curiosity, encourage a true critical sense and a spirit of tolerance and understanding. If such results are to be obtained, however, means must be found to enforce upon the purveyor of news, the ideologist and the controversialist alike a more strict observance of the principle of avoiding attaching supreme importance to the sensational or indulging in categorical statements, to insist on careful wording and due thought to the possible repercussions on the individual's own private opinions of the skilful use of aggressive or insidious language in broadcasting.

Cahiers d'Etudes de Radio-Télévision, No. 16. Flammarion, 20 rue de Vaugirard, Paris VII^e.

The first article in this number of the review bears the title *Politique Etrangère et Information Radiophonique* and is the text of a lecture given by Mr. Paul Péronnet. In it he emphasises the important part played by foreign politics in the RTF's programmes and describes the difficulties that arise in this particular field, some of which are due to the enormous gap between the complexity of the subject and the ignorance of the majority of the public. Mr. Péronnet ends with an appeal for a liberal statute that will define governmental prerogative with regard to the RTF.

The poet Philippe Soupault contributes an article entitled *Un Monde Nouveau* in which he comments on the tremendous importance of radio to those who are blind. This is followed by a description of the Nippon Hoso Kyokai music library by its librarian, Mr. Takashi Ogawa. *Enquête sur la Diction Poétique* is a continuation of the enquiry undertaken by Mr. Jacques Charpier and contains the answers of four more experts on the subject of poetic diction.

Another enquiry conducted by Mr. Bernard Blin takes the form of interviews with RTF television directors and concerns the future of television as an artistic phenomenon. Mr. Roger Iglésis is interviewed in this number. Another interview is reported between Mr. André Veinstein and Mr. Marcel Marceau on the art of mime on television. This is followed by an extensive bibliography on the subject.

The section *Réflexions et Expériences* offers marginal reflections by Mr. Jean-Jacques Gambut on the international meeting of television stage-designers in 1957, a study of the plot and the action in drama by Mr. Henri Gouhier, and a description by Mr. Georges Konen of certain experiments undertaken by the French-language broadcasts' section of the Belgian radio in imitation of the French *Club d'Essai* and the BBC Third Programme.

Under *Informations et Documentation* there are details on the NHK Radio Culture Research Institute, the United Nations Economic and Social Council, and the theme of the congress on *the child in the world of today* held at the University of Montreal in September 1957.

La Télévision Scolaire, un Moyen sans Précédent, by Yolande Condat, in *Télé Magazine* of 16th February 1958.

The author reminds us that the effectiveness of broadcasts to schools depends to a large extent on the way in which teachers make use of them. In France, they are given every encouragement to prepare the lessons with the help of talks, pictures, maps and appropriate reading matter. Forms relating to the broadcasts are sent to them regularly to be filled up and returned to the schools television service.

Many teachers are nonetheless opposed to the use of television in schools: some consider it makes for more work without improving their chances of success; some find it difficult to adapt themselves to the audio-visual medium; others do not approve of the form the broadcasts take, finding them ill-suited to the needs of their classes.

At the same time, the writer declares, there are large numbers of teachers who have been completely won over by television and have grown enthusiastic about its possibilities. A brief résumé of some of their comments shows they are convinced that it encourages children to think for themselves more than they would normally do in the classroom, that its use in schools represents a method of teaching that is without precedent, and that it allows the teacher to add to the interest of his lessons by having recourse to materials he would have neither the time nor the means to assemble with such care himself.

The writer comments on two visits she made to schools in Paris to investigate the effectiveness of teaching by television. She observed the satisfaction with which the pupils greeted the pictures on the screen; she heard the teacher expand the commentary where and when practicable and keep the interest of the class alive. A referendum on a small scale showed that it was the details that left most impression on the young mind and that the lessons that were most appreciated were those on vocabulary, history and science.

There are some teachers who feel, however, that schools broadcasts do not take the pupil out of the classroom as much as they might and are content in too many cases to duplicate the ordinary work of the class. It seems from their comments that it would be preferable to give more examples from everyday life and show what goes on in factories, workshops and hospitals, for instance.

The director of the broadcast service for schools in France, Mr. Dieuzeide, hopes to be able to develop the present series of programmes and organise international relays which would do much to encourage mutual

comprehension among young people. It is his intention to extend the teaching of science considerably. Another of his plans is to introduce broadcasts intended to replace homework and provide a link between the school and the home, with talks on careers and professional training. He would like with the help of local transmitters to organise joint broadcasts with the provincial universities and create an educational television network.

These are of course long-term plans, the writer concludes, but it is felt that some of the results it is hoped to attain will have been achieved when the pupils of a small country school, for example, or a college buried in the heart of the country, are able to follow the lectures of a distinguished professor from the Sorbonne or the Collège de France.

Educational Radio and Television in the Detroit Public Library, by Kenneth E. King, Coordinator, and James E. Dance, Assistant Coordinator, Community and Group Services for the Detroit Public Library, U.S.A. Article appearing in the *Unesco Bulletin for Libraries*.

This interesting account of the Detroit Public Library's role in educational television starts with the Library's decision to become one of the charter members of the Detroit Educational Television Foundation, when it was incorporated in 1953 for the purpose of securing and operating an educational television channel in Detroit. Since October 1955, when broadcasting from this station began, the organisational set-up for the production of television programmes has become well integrated in the library's administrative structure. At the outset, the library could count upon only a few of its staff members who had television experience, but considerably more had radio experience. Before the station went on the air, several other staff members took courses and attended workshops on educational television.

The current series of programmes was arrived at after considerable experimentation, in the course of which it was discovered that the deceptively simple answer to the question: "What can librarians do best on television?" was: they can talk about books.

In one case, the library was able to transfer to television a programme that had previously been successful on radio. This is a discussion programme for young adults and has been converted to television under the title of "Young America looks at Life"; books are brought in to show how they could help teen-agers to understand and solve their problems and develop their interests.

The library has had a continuous programme of story-telling in its children's rooms for over 50 years and it therefore seemed logical to choose story-telling as the Children's Department's part in the educational television schedule.

During its first season on television, the library experimented with an adult series called "Books in Action".

From one of the more successful parts of this series emerged the library's current 15-minute programme of book news and reviews, "This Week in Books", which has been continuously on the air since July 1956. The programme has adopted the simple formula of a librarian seated at a desk, displaying and talking about new books. "Title hunt" is a television quiz game based on books.

In the 12-month period between July 1956 and July 1957, 115 live television programmes occupying 41½ hours of air time were planned and produced by the Library's Community and Group Services Department.

MISCELLANEOUS PUBLICATIONS

Bibliographie Sommaire de Langue Française sur les Techniques Audiovisuelles appliquées à l'Éducation. — Roneographed volume of 34 pages, published by the Audio-Visual Centre of the Ecole Normale Supérieure, Saint-Cloud. — A useful list of the principal books and articles that have appeared in the last ten years in the French language on audio-visual techniques and their application, with particular reference to the cinema, radio and television.

Télévision et Éducation, compiled by L. Dieuzeide for the Audio-Visual Centre at Saint-Cloud, 2nd edition, 1957. Roneographed volume of 66 pages. — This is a bibliography of a large number of books and articles published throughout the world on educational television as such, and on the educational impact of television as determined in various countries on the basis of investigation and experimentation. One section deals with congresses, seminars and conferences, another with the world-wide development of television, its present position and the legal and economic problems it poses. Other chapters describe television in relation to the mass communication media, popular education, children and young persons, and some of its special uses.

Schweizer Fernsehen. — An illustrated 32-page brochure, with a preface by Mr. Giuseppe Lepori, Head of the Swiss Department of Posts and Railways. This is an interesting SSR publication issued at the start of a new phase in Swiss television. The many articles of note include important contributions on television in relation to politics, television at the service of the Catholic Church, the responsibility of the evangelical Church, television films and the cinema, programmes for young people, television in industry, technical developments, television and the writer, and television and the tourist trade. There are also descriptions of the service in both French-speaking and Italian-speaking Switzerland, lists of transmitters and statistics on the state of progress in Switzerland and other countries. Many well-known names figure among the contributors to this comprehensive little book.

Impact 24. — A quarterly review of television, published by the Buland Publishing Company Ltd., London, price 10/- per copy. This is a very well produced magazine concerned primarily with commercial television. The January 1958 issue contains a number of interesting articles which include a paper on television advertising and motivation research by Dr. P. Kelvin, scientific director of the Motivational and Social Research Centre Ltd., an article on new developments in audience research methods by Dr. W. Belson, senior psychologist in the Audience Research Department of the BBC, and a report on the situation of commercial television in Western Germany. There is also a book reviews section.

LEGAL SECTION

THE INTERNATIONAL PROTECTION OF RIGHTS ANCILLARY TO COPYRIGHT ¹

PROCEDURAL PROBLEMS

by Dr. h. c. BÉNIGNE MENTHA ²

It is now many years since the question was first mooted of the international protection of the so-called rights ancillary to copyright, which in their essentials mean the rights of performers, the rights of manufacturers of contrivances for the reproduction of sound, and the rights of broadcasters. The movement received a new fillip at the close of the Brussels Conference for the revision of the Berne Convention: had not the votaries of copyright officially declared that an international Convention concerning rights ancillary to copyright was a consummation devoutly to be wished, as witness three resolutions, one for each of the above-mentioned three groups of beneficiaries? Thereupon the Permanent Committee of the Literary and Artistic Union, which had been set up in Brussels, successfully undertook to frame a first draft.

This draft, which was adopted in Rome on 17th November 1951, was a work of European inspiration. It was not so because of the initial and declared purpose of its authors, and indeed the active cooperation of the United States in particular would have been more than welcome. But at Rome the United States had only one "observer" with a watching brief, a task of which he incidentally acquitted himself most conscientiously.

There was a complete reversal in this situation after the Universal Copyright Convention called into being by Unesco was signed in Geneva in 1952. The United States took a decisive hand in the framing of this diplomatic instrument, a role which it would not have been able to play against the setting of the Berne Convention, which by then could look back on 65 years of activity. Overnight the United States found itself involved—and advantageously so—in international conferences in behalf of copyright. The U.S. took a liking to them, the more so because Unesco, which it was largely subsidising, was on the lookout for new work for its Copyright Division,

which had shepherded through the preliminary negotiations leading up to the Universal Convention of Geneva. The temptation (no disparagement) to take part in the discussions on ancillary rights was a strong one, especially because the Rome draft was still a long way from the necessary degree of maturity to serve as a basis for the deliberations of a Diplomatic Conference. Several important questions called for clarification, and some of the provisions were drafted in such laboured language that it was absolutely necessary to cast them in a better mould.

Unesco and the Washington Copyright Office thus fell in with an idea that was already on the march, and which with their help could aspire to cover the whole of the "free" world. The trail-blazers in the Berne Union might at first be somewhat prone to resent this help as a kind of unsolicited interference, but there was no blinking the fact that the canvass of the Berne Union was proving to be too narrow for the continuation of the work. This highly apposite remark comes from Professor Eugen Ulmer, to whom we are indebted for a monograph on the international protection to be granted to performers, manufacturers of phonograms and broadcasters, a scholarly work that fascinates by its insights into legal policy (Munich, C.H. Beck, 1957 ³). In affairs of this kind care must be taken to eschew all vanity, whether individual or collective, and it was therefore the duty of the authors of the Rome draft to accept with gratitude the proffered help on the part of Unesco and the Washington Copyright Office.

But other interested parties meant to take a hand in the enterprise, and it is high time to mention the real prime movers in the matter, namely the interests orbiting around the International Labour Office (I.L.O.) who for decades have been trying to get up some better form of protection at the international level, mainly for the benefit of the performers. The International Labour Office and the Bureau of the Literary and Artistic Union had even

¹ The author has been kind enough to bring up to date the article which he first contributed in German to the "UFITA" review, Vol. 25, No. 1/2. We are privileged to reproduce it by courtesy of Dr. Roeber, the editor of that review.

² See *EBU Review*, No. 47 B, page 51. (Editor)

joined forces for a while for the attainment of this end. The 1951 draft, for example, had the effective support of the International Labour Office. But the two institutions proceeded along different ways when the draft became the topic of public controversy. The authors of literary and artistic works, rightly deeming themselves to be the proper concern of the Berne Union, sharply criticised the Rome document which, in their eyes, did not sufficiently stress the pre-eminence of the creator over the interpreter. Let us face the fact that it was a mistake to invite the authors' representatives to Rome as observers only, and not as experts on the Committee. But this psychological blunder, as I see it, did not have any serious consequences on the material plane: the authors' observers were fully at liberty to speak, and as they were lacking neither in talent nor in ability, their views were authoritatively put whenever they thought it appropriate to take the floor. Despite this, public opinion in the authors' camp proved definitely hostile to the Rome draft and rejected it lock, stock and barrel, without even pausing to pick out the shortcomings that were conceded by all. This attitude induced Unesco and the Berne Union to see the problem of ancillary rights mainly through the authors' eyes, while the International Labour Office was at pains to safeguard the interests of performers, the gramophone industry and the broadcasters alike, taking its stand on labour law.

The two opposing trends are clearly apparent in the two most recent drafts—the one sponsored by the International Labour Office and dating from 1956, and the other framed in 1957 under the aegis of Unesco and the Berne Union. The I.L.O. draft may be described as a considerably remodelled and completed version of the Rome text, account having been taken of the professional claims of the performers, the record manufacturers and the broadcasters; the other draft is the handiwork of a committee of experts from twelve countries which met in Monaco and which embraced, in part at least, the basic ideas contained in the "authors' joint principles" drawn up by the authors' representatives on the subject. That is how matters stand to-day; the above-mentioned essay by Professor Ulmer describes it in detail and in felicitously chosen terms. I need do no more than outline it, for it is not my intention to rehearse everything that has gone before, but merely to pick out what is necessary or valuable in the past for the preparation of the future.

One point is not in issue: there can only be one international Convention on rights ancillary to copyright. The system of having two copyright Conventions each aspiring to universality (i.e. the Berne Convention and the Geneva Universal Convention) has little to commend it in theory, though it may be expedient enough in certain given circumstances. Hence the 1956 I.L.O. draft and the 1957 Unesco-Berne Union draft must somehow or other be made to yield to a single draft. Professor Ulmer said of the 1951 draft that it was an important milestone on the road to the goal. I should like to extend this tribute to the two drafts of 1956 and 1957. To be honest, I fancy

Professor Ulmer's assessment has a nuance in it, and he does not credit the I.L.O. draft with quite the same weight as the Unesco-Berne Union one. The draftsmen of the former, he points out, were defending the interests of those who briefed them, the performers, record manufacturers and broadcasters. The authors of the latter draft were not committed to the same extent. And he is right. However, as I see it, this does not detract from the worth of the I.L.O. draft, though it would if that document gave an unfair advantage to only one or two of the three interested groups. Yet we know on Professor Ulmer's own authority that the I.L.O. draft constitutes a sensible compromise between the people who drew it up. Surely that is an outstanding advantage? The problem is partly solved. What remains to be done? To reach agreement with the authors; now that the other three professional groups are agreed, the obvious thing is to try and bring the authors into the embryonic alliance. A comparison could be made of the 1956 and 1957 drafts to see how they could perhaps be conflated into a third version which would command the support of all four groups. Neither of the existing ones seems to be cut out for this unifying role, but if I am wrong in saying this, so much the better.

The Monaco experts outlined a very good procedure for pursuing the discussion. They suggested to the Director of the Berne Bureau and the Director-General of Unesco that they should, if possible by agreement with the Director-General of the I.L.O., convene a committee of governmental experts having as its terms of reference to consider the observations sent in by the various governments on the Monaco document and to modify and adjust it accordingly. This affords a means of re-establishing cooperation on a wide basis (for it is clear that the governmental experts will listen to the opinions of all concerned). How will the final agreement be reached?—via the I.L.O. draft or via the Unesco-Berne Union document? It does not matter much either way, provided that the end result is achieved. But the price will have to be paid—the sacrifices indispensable for success will have to be made. In this respect the authors will have the morally loftier, but also the more difficult, task: they will not get anything out of the Convention, and yet it is they who create the works whose very existence is a condition precedent for protection for the other groups. If they lend their support to an agreement, they will be doing a nobly unselfish act, which could rightly be hailed as a victory of mind over matter.

I do not wish to dwell on the vexed questions of the contents of the future Convention. Either might perhaps be solved by an agreement conceding the point to one group in exchange for some concession elsewhere. Doubtless the Monaco Committee was wise to provide a right to remuneration for individuals only, to the exclusion of Trade unions, and it would seem that the I.L.O. would be well advised to give way on this. On the other hand, the authors to my way of thinking seem a little too fearful that the performers and the other bene-

ficiaries of the Convention on Ancillary Rights will have an unjust advantage, compared with the way the authors are treated in the Berne Convention and the Universal Convention of Geneva. This apprehension was contested at Monaco, where it had been raised by the authors' representatives; it does not appear in the draft, but is recorded in the report as a motion by the French and Italian experts.

On one principle there already seems to be agreement : the performers will be given an exclusive right of authorisation (and hence of prohibition). Yet this holds a problem that was pointed out for the first time by Piola Caselli and taken up again in a subtle and penetrating analysis by Professor Ulmer (in the above-mentioned work). If the performer is justified in forbidding third parties to record his recitation or performance, he is *eo ipso* in a position to obstruct the author's right in the work performed. Admittedly the two rights are in different things and are theoretically separate, but that is not to say that disputes will not arise in practice. Perhaps it would be vain to try to eliminate them completely. The right of prohibition amounts to a tacit recognition of the "moral rights" of the performer in his performance. I say "tacit", because the United States is against having any express mention of the *jus personae* (and that holds good for the Universal Convention as well). But I cannot help thinking that the interests in the balance would be better defined if the *jus personae* were reserved *expressis verbis* wherever such a clause is thought reasonable and just, and if in all other cases we were to confine ourselves to providing for a mere right to remuneration.

Postscript

I had already sent the above reflections to the editor of UFITA when a welcome opportunity of checking and supplementing my information and my conclusions was given to me at a meeting of the Swiss Association for the Protection of Copyright. Let me say briefly what I gleaned from this investigation.

It is important to realise precisely on what basis the 1956 I.L.O. draft and the 1957 Unesco-Berne Union draft are built. The former, as we have said, is a compromise between the performers, the manufacturers of contrivances for the reproduction of sound and the broadcasters, who have struck a balance between their respective interests. A fourth group, the authors of the works used by the other three, did not take part in the framing of the I.L.O. draft. It must accordingly be deduced that they at any rate do not support a draft which they could have had a hand in preparing, if they had been so minded.

The standoffishness of the authors in regard to the

document in question led me to believe that their ideas were set forth, at least in part, in the Unesco-Berne Union draft. The latter, prepared in Monaco in March 1957, is the handiwork of a committee of experts on which there were only three representatives of the organisations concerned, but all three of whom were members of international societies of authors. Several other representatives of professional associations were present at the deliberations, but with the status of observers and not of experts. The natural supposition was thus that the Unesco-Berne Union draft was a more faithful reflection of the authors' standpoint than was the I.L.O. text, the more so because the governmental experts included several members of the Permanent Committee of the Literary and Artistic Union, who were naturally in close liaison with authors' circles.

And now I receive, from a most reliable source, a rectification of my theory. The Unesco-Berne Union draft is by no means the authors' draft. What then can it be? Apparently the correct thing to call it is a draft of learned experts. Generally speaking the experts, who were chosen after their governments were consulted or were appointed outright by their governments, regarded themselves as the representatives of all the interested persons and groups, a fact which is entirely to their credit. But behind the appearances there are the hard facts. Will the groups who adhere to the I.L.O. draft give their backing to the Unesco-Berne Union document? It seems highly doubtful, to say the least. And then where is the wide backing for the Monaco jurists? Has their work found favour with the authors, on the other hand? This seems most unlikely: the latest reports indicate that C.I.S.A.C. circles are rather critical of it (see *Inter-Auteurs*, No. 129, 4th Quarter 1957, p. 171 ff.). Thus all the professional associations concerned are displaying "the most respectful enthusiasm" (as was once said of a first night that met with a rather lukewarm reception, at the expense of a famous author) regarding the Unesco-Berne Union draft. It still remains to elicit the opinion of the users, though this would probably not change the situation much. The Monaco draft is of great legal and scientific value, as befits those who begot it, all of them eminent dons or jurists. But it is a rather sickly child, born into a harsh world.

Let us not lose hope, however. I am informed that there is a desire for agreement with the authors, particularly among the broadcasters, and that discreet feelers are being put out to find some common ground. These efforts are most praiseworthy ones, and one trusts they will succeed. A united front of authors, performers, record manufacturers and broadcasters would be the best possible jumping-off ground for a victorious operation.

NEWS AND INFORMATION

FRANCE

Copyright in Photographs. — The January 1958 issue of the *Revue internationale du Droit d'Auteur* and the July 1957 number of the *Annales de la Propriété industrielle, artistique et littéraire* publish two judgments delivered by the Paris Court of Appeal on 1st April 1957 which relate to copyright in photographs. Considering the increasingly frequent use of photographs on television, certain excerpts from the judgments will no doubt be of interest.

The following considerandum is taken from the first decision :

“ There is doubtless cause to establish a distinction between those photographic works that are a product of mechanical application, however skilful the actual workmanship may be, and those which by reason of their original or documentary character and the personal touch their authors have succeeded in giving them may be likened to the other intellectual creations which qualify (and qualify alone) for protection within the framework of the 1793 Act.”

In the second judgment the clauses of chief importance are the following :

“ Whatever the artistic merit, it is essential that a photographic work should bear the impress of an original and personal composition to be capable of ranking with the literary or musical works, or the labours of architects, painters or draughtsmen which are copyright under the Act of 19th-24th July 1793, an Act which confers on their authors an incorporeal and exclusive right;

this is undoubtedly the case with photographic works which by their subject are akin to the plastic and decorative arts, and with those having a documentary character or those which through their originality bear the mark of their author's personality; but this is not the case with photographs of an indisputably commonplace type which appear rather to be the product of technical, physical or chemical processes even when such processes are performed with the conscientiousness or skill of a professional photographer.”

The significant thing is that while in the first judgment the Court seems to be making copyright in photographs conditional at once upon their original or documentary character and upon the personal touch the author has succeeded in giving them, the second judgment appears to rest content with the documentary character as the only requirement for protection. This liberal approach corresponds to section 3 of the new French Copyright Act which provides that photographic works of an artistic or documentary character shall be deemed to be copyright works. If this interpretation of the second judgment and the new French Act is not at fault, copyright in France will henceforward subsist even in those photographs which, while they do not bear the impress of the photographer's personality, can be brought within the rather elastic concept of documentary photography.

GERMANY (FEDERAL REPUBLIC)

New Interpretation of Section 2 § 2 of the Copyright Act. — Several reports have appeared in these columns recently on the increasingly frequent interpretations the German Courts are giving of section 2 § 2 of the Copyright Act, according to which the performer is deemed to be an adapter of the work once his sound performance of the work is recorded. In a recent issue of the *EBU Bulletin* (No. 45, p. 637) it was noted that the Berlin *Landgericht* in the judgment it handed down on 8th July 1957 interpreted this clause as vesting an adapter's copyright in each individual musician in an orchestra or similar group, with the result that a licence to use the recording of the performance could not validly be granted by the conductor alone. The Munich *Oberlandesgericht*, sitting as a Court of Appeal in another action, has just delivered a judgment which holds the thesis put forward by the Berlin Court to be wrong, and instead adopts the one that many jurists in Germany and elsewhere have upheld for years.

The facts were simple. A conductor had founded an orchestra shortly after the war. He conducted the orchestra himself and used it on a number of occasions to give broadcasts on the Bavarian broadcasting system, some of which had been recorded and the recordings re-used. When this was done the broadcasting authority paid the conductor under his contracts with them an agreed supplement of 10% of the initial fee in respect of each of the repeat broadcasts.

Twenty-eight members of the orchestra in question claimed that they were entitled to a share in the 10%, and authorised their union, the *Deutsche Orchester-vereinigung*, to bring an action on their behalf against the conductor. This action was based chiefly upon an interpretation of section 2 § 2 of the Copyright Act, pursuant to which, they argued, each member of the orchestra was the owner of an adapter's copyright, which was infringed every time his recorded performance was re-used without his consent.

On 10th January 1956 the lower court gave judgment for the defendant. While conceding that each of the musicians enjoyed the copyright derived from section 2 § 2 of the Act, the court held that the defendant conductor had secured an assignment of the musicians' copyright on the strength of the basic payment, and could thus legitimately negotiate the terms for further uses of the tapes and keep the supplements paid in respect thereof by the Bavarian broadcasting authorities.

The plaintiff organisation lodged an appeal against this decision, again basing it primarily on its interpretation of section 2 § 2 of the Act and on the fact that in copyright any contracts of assignment must be construed restricti-

vely, and that an implied assignment can only be inferred in cases where it follows necessarily from the circumstances.

In a judgment delivered on 23rd January 1958 the Munich *Oberlandesgericht* upheld the judgment of the lower court. After taking notice of the fact that the authorities did not agree on the true construction of the provision concerning an adapter's copyright for the performers and after alluding to the judgment of the Berlin *Landgericht* to which reference has been made above, the appeal court reached a diametrically opposite opinion, namely that the right derived from section 2 § 2 of the Act can only vest in those performers who leave a personal imprint on the performance. However, the court continued, this personal imprint which is the only possible justification for a copyright in a recorded sound performance could only come from the conductor, whose instructions the musicians had to follow in their playing to the point where their own personality was lost. In the opinion of the court, the conductor alone made an individual and original contribution which would qualify for copyright protection, as the contributions of the musicians did not rank as a creative intellectual contribution. A performance was thus not merely the sum total of a number of individual renderings eligible for protection but rather a collective endeavour in which the playing of individual musicians was blended into one whole, the value and expression of which are determined by the conductor. The position could not be regarded differently except in cases where there was no conductor, as for example in small chamber music formations, or where the conductor's personality receded into the background, e.g. when soloists were performing.

Although it is to be expected that this ruling, like the Berlin judgment, will eventually come before the Karlsruhe Federal Court for final review, one cannot deny the great importance attaching to the decision of the Munich *Oberlandesgericht* which thus lends its authority (apparently for the first time) to the theory that it is not the individual musician—from the first violin to the tympanist who is invested with a fictitious copyright set up by law. By vesting this right in the conductor alone, the court has brought within tolerable bounds the effect of a provision that is so often criticised by the legal authorities and is so contrary to a sound conception of copyright.

Judgment Giving the Record Industry the Right to Control Public Performance of Records. — As already announced in the *EBU Bulletin*, No. 33, p. 538, a number of record manufacturers brought proceedings in the 17th Civil Chamber of the Berlin *Landgericht* against the proprietor of a café to claim an injunction restraining him from using records without a licence from the plaintiffs and damages in respect of his use of records in the past. Several other bodies intervened on the defendant's side in the case, among them the GEMA, a performing right society, and the *Deutsche Orchester-*

vereinigung, a performers' trade union. The case hinged on whether the record industry, as the assignee of the performers' fictitious copyright, could rely on this copyright to control the public performance of records. Giving judgment on 2nd January 1958 the Berlin *Landgericht* gave an affirmative answer to this question. The judgment, which is closely argued, is based on the following reasoning.

Section 2 § 2 of the German Copyright Act provides that when a literary or musical work has been adapted to a contrivance for the mechanical reproduction of sound by the personal intervention of a performer, the contrivance thus produced shall be deemed to be an adaptation of the work. The copyright in this adaptation vests in the performer. Section 11 § 2 of the Act makes any public performance of the work subject to the exclusive right of the author; this right, however, is curtailed by the provisions of section 22 (a), whereby legitimately manufactured contrivances may be used for the purpose of performing the work in public without any special licence being required. This restriction was inserted in the 1901 Act by the amending Act of 1910 with a view to protecting the phonographic industry itself, as the court points out. It was however later regarded as an exceptional provision and its implications were restricted to the level of technology which the legislature had cognizance of in 1910. Back in 1936 the former *Reichsgericht* refused to apply section 22 (a) to broadcasting, and held that this new mode of performance required both the consent of the authors of works reproduced in record form and the authorisation of the performers or their assignees (or in other words the record industry), as the case might be. Following the precedent laid down by the *Reichsgericht*, the Federal Court ruled in a judgment of 6th November 1953¹ that section 22 (a) was not applicable to cases where a record was used not with a gramophone of the 1910 variety but instead with a pick-up connected to an electro-acoustical loudspeaker. This judgment, however, concerned only the copyright proper, that of the composer, and had nothing to do with the fictitious adapter's copyright. The issue before the Berlin *Landgericht* was whether the Federal Court ruling could also be applied to the fictitious adapter and those deriving title through him.

The *Landgericht* set out from the principle that there was no difference between the copyright of the author of the recorded work and the copyright of the fictitious author, the performer. It finds support for this opinion in the above-mentioned judgment of the former *Reichsgericht* which had made no discrimination in the matter of broadcasting between the composer and the performer or his legal assignee. Going against an opinion expressed in an advisory capacity by Professor Möhring, the *Landgericht* endorsed the theories of Professor Ulmer, the writer of another legal opinion produced in argument, who considered that the adapter's copyright deriving from

¹ See *EBU Bulletin*, No. 24, p. 194.

section 2 § 2 of the Act included *ab initio* not merely the right of reproduction and the right to offer for sale, but also the right of public performance. Indeed, the court argued, if the opposite were true the performer would have protection against the unauthorised reproduction of his recording but would have no remedy against the use in public of an unauthorised recording. When it decided in 1952 that record manufacturers could restrain the public performance of a tape recording made by copying a record without their permission, the Federal Court already recognised that the adapter's fictitious copyright also covered the right to authorise public performance.

A limitation on this fictitious copyright could likewise not be inferred from the fact that exercise of the right in the matter of public performance was conditional upon the consent of the author of the work performed or of GEMA, as his assign. In the opinion of the court the performer's copyright was clearly a right at second hand, but that did not mean that without the composer's consent the adapter's right would not come into being. On the contrary, even if the adaptation was made without the licence of the author of the work thus adapted, it created a right that could be exercised against all comers independently of that of the owner of the principal copyright.

Similarly, the industry's contract with BIEM could not be read as limiting in any way its right to enforce the copyrights it may have secured from the performers. Admittedly BIEM expressly reserved the broadcasting and performing rights, but this reservation related only to the recorded work and not to the performer's adaptation, which existed only from the time when the recording was made, and the court considered that the fact that the membership of BIEM did not include performers directly or indirectly but only authors and composers lent further confirmation to this view. Moreover, the contract between the industry and BIEM expressly reserved the industry's own rights, and nothing in the contract could be construed as divesting the manufacturers of the exercise of their own rights.

The Court then examined whether the performers' assignments of copyright to the industry included or withheld the performing rights. The *Landgericht* took the view that performing rights were included in the assignment. In the first place it was wrong to say that this right had hitherto been non-existent, and it must be recognised that after 1936, the year of the *Reichsgericht* decision cited above, the performers were bound to expect that new technical developments would gradually bring about a reduction of the scope of the proviso in section 22 (a). In the second place, as already stated, the performer's copyright included the performing right from the beginning, and this right was therefore not non-existent, especially because if such had been the case the courts would have been powerless to bring it into being in the absence of a statutory provision.

It was equally erroneous to say that the performing rights had been transferred to the industry only in those

cases where all the musicians in an orchestra together with the conductor had so transferred them. The Court held that a transfer by the conductor alone was enough, provided that the circumstances of the transfer were such that it could be shown that the musicians were not unaware of the business reasons underlying their performance. In the case of commercial records, the making of which involved painstaking technical preparations, it was undoubtedly safe to say that the performers realised that a commercial record would be made, and that it would later be used for public performances. It could thus be assumed that the conductor was entitled to act on their behalf.

As regards the plea also entered by the defendants to the effect that something like 400 of the performers on the records used by the café proprietor were members of GEMA and had already assigned their rights to the society, the court found that this assignment bore only on the true copyright which may vest along with the adapter's right in one and the same person. To take the case of composers performing their own works, GEMA had secured only the rights in the composition, but it did not administer the right arising under section 2 § 2, the court being unable to take into consideration, on account of its date, a recent amendment of the form of assignment which members of the society were required to sign.

A question of principle which the *Landgericht* also had to decide was whether the industry could claim the right granted to performers in respect of records of foreign as well as German origin. The court found that under section 55 of the Copyright Act the right instituted by section 2 § 2 is available to foreigners provided that the first issue of copies took place in Germany. It held the Berne Convention to be inapplicable, first because it does not govern performers' rights, and secondly because the United States, the chief supplier of foreign records, is not a party to it. The legislation that governs this problem is Law No. 8 of the Allied High Commission of 20th October 1949, under which nationals of the Allied powers enjoy in Germany the rights granted to German nationals. Even though it was true that the Italians and the Swiss did not qualify for such equality of treatment, it must be recognised, the court stated, that the records used by the defendant (the café proprietor) were made exclusively from master records of which the country of origin was an Allied power, the result being that the 1949 Law was fully applicable. Furthermore, the contracts covering exchanges of master records expressly provided that the plaintiff manufacturers could exercise all the rights that belonged to them in the importing country.

On account of the fact that the plaintiffs could not claim to control the gramophone repertoire of the whole world, but only their own production, the court restricted the injunction on the café proprietor to the records mentioned in the writ. It also rejected the claim for damages, holding that the café proprietor had not been at fault in using the records without the manufacturers' consent since the

question of whether consent was required was a highly complex one and an ordinary individual could not be held to blame for not knowing the correct legal answer.

It is probable that there will be an appeal from this judgment.

ITALY

Freedom of informations. Cinema and Television Newsreels. Judgment of the Milan Civil Court. — Readers will recall an article that appeared not long ago in the *EBU Bulletin*, No. 40, p. 815 and in which a summary was given of a decree handed down by the Praetor of Rome. In this judgment the Praetor declined to construe a contract between the promoter of a sporting event and a film maker for exclusive rights as being enforceable *erga omnes*.

The Milan Civil Court recently delivered a similar judgment, based on a comparable set of circumstances, in a suit brought by Studio Starter, a film-making concern, against the Italian Newsreel Company (CIAC). As in the previous case, the plaintiffs had obtained the exclusive world film and distributing rights (for both cinemas and television) in a sporting event, namely the World Road and Track Cycling Championship, which took place on the Frascati circuit on 27th and 28th August 1955 and at the Milan motor and cycle racing stadium from 1st-4th September 1955. Notwithstanding the exclusive concession the defendants had also filmed both parts of the championship and had distributed their film to cinemas as part of one of their sports features. They were later restrained from doing so when the plaintiffs secured a provisional injunction from a judge sitting in chambers. The plaintiffs moved the Milan Civil Court finally to prohibit the distribution of the sequence in question, to direct it to be destroyed and to order the defendants to pay damages in respect of both the *damnum emergens* and the *lucrum cessans*. In their answer the defendants submitted that the claim should be dismissed and counter-claimed for damages for losses sustained through the withdrawal of their reel from the cinema circuit.

Giving judgment on 17th October 1957 the three judges found for the defendants with costs, and ordered the plaintiffs to pay compensation for the loss caused by the non-utilisation of the film. The grounds for the judgment are so like those adduced by the Praetor of Rome in the above-mentioned case that it will suffice to summarise them in a few words.

After closely analysing the facts of the case, the Bench observed that the promoter of the event did not possess any private law monopoly in the event that was capable of being assigned. Italian law, the court stated, recognises three classes of rights that are enforceable *erga omnes*, viz. those in the copyright class, those which afford protection to industrial inventions and designs, and those which make it possible to identify the goods of a certain manufacturer (i.e. trade marks). However, for the reasons set forth by the Praetor of Rome (to which the Milan

court expressly refers), a sporting event cannot be likened to a work in which copyright is capable of subsisting, and it therefore does not carry any monopoly for the organiser. The latter is not in any sense in the same position as the manager of a theatre, who is responsible for the staging of a work of the mind.

Apart from this, regard must be had to the right to information and the constitutional and statutory guarantees of the right to disseminate information not only by way of the printed word but also via modern media of communication such as the cinema and television. No one can prevent persons who operate these media from enabling the public to view a sporting event, and still less when the event is held in a public place or a place to which the public has access.

It may legitimately be supposed that this judgment may have fortunate consequences as regards the televising of sporting events.

SPAIN

Decree concerning the Installation of Television Aerials on the outside of Buildings. — Following in the wake of France¹ and the Principality of Monaco², the Government of Spain has just passed a decree to regulate the installation of television aerials on the outside of buildings. In the terms of the decree, dated 18th October 1957 and published in the *Boletín Oficial del Estado* of 18th November 1957, tenants and other legal occupiers of all or part of an urban building shall be allowed to install television aerials at their own expense, without other restrictions than those arising from observance of the official regulations on the subject. Any contractual stipulation at variance with these provisions shall be deemed null and void, notwithstanding the fact that it had been agreed to before the promulgation of the decree. Cases of dispute arising in connection with this matter shall be tried in the ordinary courts.

In the preamble to the decree, emphasis is placed on the need to prevent both the arbitrary installation of outside aerials and the unwarranted opposition of the owners of buildings.

SWITZERLAND

Judgment Confirming the Expulsion of Performers from a Union for Appearing in Eurovision Programmes. — The Société Suisse de Radiodiffusion entered into a contract in 1955 with a Basle chamber orchestra known as the Collegium Musicum for the orchestra to perform in television broadcasts, including those relayed over the Eurovision network. In the light of the 1954 decision by the three international performers' federations to boycott international television relays until agreement was reached with the EBU, the Swiss

¹ See *EBU Bulletin* No. 22, page 697.

² See *EBU Bulletin* No. 38, page 549.

Musicians' Association served notice on the members of the Basle orchestra, who belonged to the Association, not to play in the first Eurovision broadcast scheduled for 27th April 1956 and to terminate the contract it had for such broadcasts. After a certain amount of indecision the musicians did not comply with their union's order, and the union thereupon got its management committee to adopt a resolution expelling them from membership for two or four years, forbidding union members to play in an orchestra or other formation with the expelled musicians and reserving the right to take further action, particularly as regards non-member musicians appearing in television broadcasts. Under the rules it was possible to appeal against the decision of the management committee and the musicians did so, but the delegate conference of the union upheld the position of its committee. The Swiss union's boycott on television broadcasts was only lifted on 31st January 1957, the date on which the international agreement between the EBU and the three international performers' federations came into force.¹

The eleven musicians expelled from the union then brought suit against the union and its chairman and general secretary, and requested the Zürich court of first instance to rescind all the disciplinary measures taken against them, to order publication of the judgment in the same manner as the decision to expel them had been published, and to order the defendants to pay damages.

Giving judgment on 11th February 1958, the Zürich Civil Court of first instance dismissed the case for the plaintiffs. In view of the length of the (written) judgment it will only be possible to cite some of the more noteworthy reasons adduced by the court.

Leaving aside the fact that the court considered that there was no case against the two officials of the union who, in its opinion, had confined themselves to carrying out the union's decisions, the principal grounds on which the action was dismissed are as follows.

In the first place the court held that the action had been brought prematurely. The plaintiffs did not wait to explore all the possibilities of appealing under the rules and had filed their writ even before appealing to the delegate conference. Basing itself on a precedent in the Federal Court the court found that the action ought not to have been entered against the decision of the management committee but rather against the resolution of the delegate conference. On account of the fact that proceedings had been started before all the possibilities of appeal within the Association had been tried, the action called in question only the decision of the management committee and not the decision of the delegate conference, which was final.

Although finding that the plaintiffs' appearance in a Eurovision programme was not in itself an act that was contrary to the interests of the profession, the court held it to be clearly incompatible with the general policy of the

union once that policy had duly been decided upon and published in accordance with the rules. In this connection it noted that the ban on participation in relayed television broadcasts had been publicised in notices printed in the official organ of the defendant union.

The court did not find that compliance with the decision of the management committee of the defendant union would have involved a breach of the plaintiffs' contracts. Indeed, the court held that the disciplinary measures could be regarded as legitimate in that they were not motivated solely by the appearance of the plaintiffs in a Eurovision broadcast but above all by their refusal to give notice to terminate the contract within the specified time.

The most striking part of the judgment in question is where the court comes to the conclusion that the expulsion and boycotting of the plaintiff performers did not invade their individual and pecuniary interests to an unreasonable extent. Even though it was proved in evidence that as a result of their expulsion the plaintiffs had to all intents and purposes lost the possibility of finding employment in Switzerland, particularly as they could no longer apply to the placement branch of the defendant union, the court did not regard this as an abuse of power or an encroachment on the pecuniary interests of the plaintiffs that was out of proportion with the matters they were blamed for. This finding appears to be all the more questionable because as far as one can make out the defendants did not allege, still less prove, that the appearance of the plaintiffs in Eurovision broadcasts had in any way hampered the negotiations between the EBU and the international performers' federations. Indeed, by lifting the boycott on Eurovision on 31st January 1957 the defendants themselves admitted that it had been possible to conclude the international agreements, and that the isolated action by the Basle musicians had done nothing to prejudice the international negotiations.

However this may be, the court looked upon the disciplinary action taken against the plaintiffs as a defensive measure that is permissible in business affairs and which *in casu* was not at variance with public order. As a result the whole of the plaintiffs' action was dismissed and they were ordered to pay costs. It is not known whether an appeal has been lodged.

UNITED KINGDOM

Copyright Act, 1956. Compulsory Licence. —

It was reported in the previous number of this *Review* that the interpretation of section 8 of the new Copyright Act had given rise to a law case in which the music publishing firm Chappell & Company Ltd. sued the Nestlé Company Ltd. and the Hardy Record Manufacturing Company Ltd. for having infringed the plaintiff's copyright by making and supplying records of certain popular tunes to persons sending in a completed coupon

¹ See *EBU Bulletin*, No. 42, p. 115.

together with a postal order for 1s. 6d. and three wrappers of a sixpenny bar of Nestlé's milk chocolate. The plaintiff held that this transaction could not properly be described as a sale of records by retail within the meaning of the Act and that there was no ordinary retail selling price on which the royalties provided for under the compulsory licence section could be assessed. The judge, Mr. Justice Upjohn, decided in favour of the plaintiff. An appeal was lodged by the defendants and heard on 5th and 6th February 1958, but judgment was reserved.

In its law report of 19th March, *The Times* gave a summary of the judgment which reversed the first decision, Lord Justice Romer dissenting. The opinions expressed by the three judges of the Court of Appeal were briefly as follows.

Lord Justice Ormerod, delivering the first judgment, said that the sole question was the construction to be put upon the word "retail" in section 8. Copyright in a musical work was not infringed by a person making a record thereof provided the conditions set out in the section were fulfilled; but in this case it was claimed that the manufacturers did not intend to sell the record by retail, or to supply it for the purpose of being so sold. Whichever way the transaction was regarded, it was not disputed that it was a sale. The distinction appeared to him (his Lordship) to be between a sale to the trade on the one hand, and to the public on the other. A retail sale might take place in a number of ways. The commonest way no doubt was by a sale in a shop over the counter, but it might take place by means of the post and other similar means, and it might be for cash or for credit, or in part exchange of other goods. How then did the transaction in question fall short of being a sale by retail? The motive for making the sale did not appear to be relevant, nor did the fact that the seller hoped to obtain some benefit from the transaction other than the actual profit on the sale.

In his Lordship's view, taking the ordinary meaning of the words used in the section, the transactions contemplated by Nestlé's were sales by retail, and the defendants were entitled to make and sell the records in accordance with the provisions of section 8 (1) of the Copyright Act.

Lord Justice Jenkins, concurring, said that the Act contained no definition of "sale by retail" and one was thus thrown back upon the ordinary meaning of the words, which he (his Lordship) took to be sale to persons buying for their own use or consumption as distinct from persons buying for resale in the course of trade. The plaintiffs' real complaint in the present case appeared to be that 1s. 6d. a record was too cheap a price, yielding too small a royalty, and was not in fact the true price, because the Nestlé Company could afford to let the records go cheap for the sake of the collateral advantage they got in the shape of increased sales of their chocolate. But any retailer of goods might get some collateral advantage from their sale, and according to the evidence he (his Lordship) saw no sufficient reason for regarding

1s. 6d. otherwise than as the true price. Moreover, the plaintiffs had no right to insist on the records being sold at any particular price, or at a price showing a profit.

Lord Justice Romer, dissenting, said that he had reached the conclusion that the decision of Mr. Justice Upjohn was correct and should be upheld. It appeared to him (his Lordship) that the retail sales envisaged by the section were ordinary retail sales for cash, across the counter or in response to written orders such as characterised the vast majority of purchases of gramophone records by members of the public. Ordinary retail sales alone, in his Lordship's opinion, were within the contemplation of the section, because the royalty payable to the owner of the copyright was a percentage of "the ordinary retail selling price" of the record: he was unable to see how there could be an ordinary retail selling price in the absence of an ordinary retail sale. He agreed with the view of the Judge that these sales were not ordinary retail sales. Under Nestlé's methods of selling them the copyright owner got a royalty assessed upon the cash part only of each sale, and he got nothing in respect of the consideration, which, although indirect, passed from the customers and was received by the company; the minimum royalty provision would, in many cases of transaction of this character, be no satisfactory substitute for the loss.

Leave was given to appeal to the House of Lords.

UNITED STATES

Retailers Held Liable on Sale of Unauthorised Records. Supreme Court Decision. — *Variety* announces in its issue of 5th March 1958 that the United States Supreme Court has upheld an important judgment by the Second Circuit Court of Appeals on 28th September 1957 in a case which has not yet been reported in these pages.

The judges were asked to determine whether the seller at retail of phonographic records that had been manufactured in violation of the Copyright Act was liable for the infringement. The facts were as follows:

A certain Joseph Krug manufactured two long-play phonograph records on which were recorded radio broadcasts including nine copyrighted musical selections the copyrights to which were owned by six different publishers, each of whom had previously authorised the selections to be recorded. However, Krug had not been licensed to make the recordings involved, nor had he complied with the compulsory licensing formalities or paid the 2 cents royalty required by law. The records, which bore no indication of the manufacturer's name, were sold to the public at a considerably lower price than the authorised records produced by the Radio Corporation of America. The records were retailed mainly by two firms, Sam Goody and Portem Distributing, Inc.

The original defendant Krug allowed judgment to be given against him and subsequently paid the plaintiffs the sum of \$2,000, whereupon the action against him was dismissed. However, the publishers owning the mechanical rights in the recorded works continued the suit against the aforementioned retail dealers.

The first judge contended that the defendant retailers could not be held liable for the unlawful nature of the reproductions they sold to the public, and that the responsibility rested with the manufacturer alone. The Court of Appeals reversed this decision by a judgment which, now that it has been upheld by the Supreme Court, will doubtless put a stop to the marketing of "bootleg" records in the United States.

In the opinion of the Court of Appeals, which closely scrutinised the language used by Congress in sections 1 (*e*) and 101 (*e*) of the Copyright Act, the seller at retail is equally liable with the manufacturer for the infringing status of the records he sells. This liability subsists even if originally unauthorised records are subsequently freed from taint by *a posteriori* payments by the manufacturer. The Court did not go along with the defendants' argument that it was a practical impossibility for them to ascertain whether records were authorised or not, and that if this burden was imposed upon them it would constitute an unduly onerous obligation. The Court held that this argument was ill-founded because no additional

difficulty would arise for retailers when dealing with reputable firms, while in the case of unknown manufacturers it was only normal that purchasers for resale should exercise as much caution with records as they would with any other merchandise.

As regards the measure of the defendants' liability, the Court of Appeals confirmed the findings of the district court that the only recovery against the seller was a payment of 2 cents per "part" or record, which sum in the circumstances was both the minimum and the maximum beyond which the judge cannot go. On the other hand, liability was not joint but several, so that the owner of the mechanical rights infringed may claim these damages from each of the sellers, even if this royalty has already been paid by the manufacturer to remove *post festum* the infringing status of the reproduction. The significance of this latter part of the judgment is particularly great in that it will now be possible for authors and publishers to sue the retailers directly, the retailers being usually rather more solvent than "bootleg" record manufacturers.

The full text of the decision of the Court of Appeals is published in the *Bulletin of the Copyright Society of the U.S.A.* for October 1957, and an excellent commentary on the case is given by Jean-Loup Tournier in the January 1958 issue of the *Revue internationale du Droit d'Auteur*.

BOOK REVIEWS

Die rechtlichen Grundlagen des Programm Dienstes im schweizerischen Rundspruch- und Fernsehwesen, unter besonderer Berücksichtigung des Problems der Radiofreiheit, by André Baumann, Doctor of Laws. Rapperswil, Carl Meyer, 1956.

Mr. Baumann's thesis for his doctorate deals with a subject that is topical enough in all conscience. An investigation of the basis in law for the programmes of the Swiss sound broadcasting and television system, with particular reference to the problem of freedom of broadcasting, is a splendid programme for a young lawyer who is keen to display his learning and his skill in argument. Mr. Baumann began his work before the passing of Article 36*bis* of the Swiss Constitution, the so-called *Article sur la radiodiffusion et la télévision*. — It might be said in passing that the French tendency to speak of *radiodiffusion* in opposition to television is incorrect: the right word is *radiophonie*. But linguistic habits catch on quickly, and once they are enshrined in the statute book they acquire a prestige that smothers any objections by the purists.

Mr. Baumann set out to do two things. First he wished to examine whether the Swiss system of broadcasting as it stood before the introduction of Article 36*bis* into the Constitution could be described as being in conformity with the law, and secondly, accepting the facts for what they are worth, he sought to describe the empirical organisation that will continue in Switzerland until such time as the new constitutional Article becomes fully operative by engendering a statute on the subject.

The most interesting part of the work is that in which the author speculates whether when broadcasting first emerged it could have been brought by subsumption under the authority of the Swiss federal law then in force. Some jurists think so; they are of the opinion that communication of sounds and images over the Hertzian waves is covered by Article 36 of the Constitution, which states that the post and the telegraph throughout Switzerland are in the federal domain. The first applications of sound broadcasting in Switzerland had to do with the transmission of meteorological information concerning aviation, and this was indeed an activity on a par with wire telegraphy or postal communication, with a sender, an addressee and a message. It was therefore natural that "wireless telegraphy" (as its name implies) should be regarded as a medium of communication to which Article 36 of the Constitution applied. And even today it can be argued that this Article embraces the whole of the technical side of broadcasting.

But Mr. Baumann holds that this opinion does not account for the phenomenon in all its breadth and complexity. Broadcasting is not just a means of correspond-

ence. It may be that; it was at the beginning and it still is in certain cases, as for instance when a traveller is notified of an accident occurring in his family that necessitates his immediate return, or when a call is sent out for some drug that cannot be obtained locally. This, however is not or is no longer the primary function of radio. Nowadays it puts out instructive and entertaining programmes for the benefit of the population as a whole, and not of an individual recipient. And therein lie two all-important differences from the telegraph or the telephone, in the first place as to content and in the second place as to the persons concerned. This function of radio, to which political propaganda may be added in certain countries, is of such importance that, in Mr. Baumann's view, it overshadows the purely technical considerations (where the analogy with the telegraph and the telephone is undeniable) as being merely an accessory element in any legal appraisal. Seeking as he was at the time of writing his thesis a solution *de lege ferenda* the author was probably right in dismissing the "telegraphic" theory—the inclusion of radio in telegraphy. But if we look at the historical evolution of the question we must recognise that this theory was sensible enough, and indeed had much to commend it, for it enabled the setting up of a provisional and workable system without loss of time.

It might perhaps have been possible to get the constitutional Article on radio adopted at an earlier date. In a democracy the legislative machine grinds slowly, and everyday life is always a step ahead of law, so that in the presence of the lightning progress of radio, it was perforce necessary to resort to a makeshift arrangement that lay open to criticism in the absolute, but was opportune in relative terms. Mr. Baumann's merit lies in having demonstrated the need for a more durable structure based on principle, which has now become a possibility since the legislator is no longer obliged to act under the spur of necessity. The phenomenon of "broadcasting", a term in which we include television, calls for legislation to fit the case—a basic constitutional provision (the Article 36*bis* now adopted) and an implementing federal Act (in course of preparation). With these in hand the programme concession granted by the Federal Council to the Société Suisse de Radiodiffusion can no longer be labelled unconstitutional because it turns on questions in which the federal writ does not normally run. And if in the end there is confirmation for the centralised system in Swiss broadcasting, it will only go to show that we instinctively took the right road from the very beginning, even though it was without legal justification, since the latter had to be supplied *a posteriori* by the popular referendum of 1957. The events have thus vindicated Mr. Baumann, and the dissertation that fills

the greater part of his book may be said to have had its day, a very creditable tribute to his youthful perspicacity.

As against this, the historical part in which he discusses the concession vested in the Swiss broadcasting society and the structure of this society has lost none of its topical interest, and it can safely be predicted that the legislator of the future, girt with unquestioned powers, will not repudiate the legacy of a predecessor who may have been a little dictatorial at times, but an enlightened despot withal.

In a concluding chapter Mr. Baumann examines whether Article 55 of the Swiss Constitution could and should be applied to radio, and whether there exists a freedom of broadcasting as something accessory or complementary to the freedom of the press. This Article 55 subsists in an extremely laconic form since the second and third paragraphs were struck out by the Penal Code of 1937, and all that remains is one sentence: "Freedom of the press is guaranteed." But does the word "press" include the radio? Mr. Baumann believes it does. By guaranteeing the freedom of the press the founding fathers of the Swiss Constitution sought to protect the citizen in what was, at the time, the most effective vehicle of expression. Freedom of the press is the channel for freedom of opinion, and if nowadays the radio has an advantage over the newspapers in its superior ability to disseminate ideas, the intentions of the authors of the Constitution should be construed as covering this new and super-efficient invention as well. The argument is not an unanswerable one; Burckhardt, for one, in his commentary on the Swiss Constitution affirms that while the freedom of the press is guaranteed, it does not follow that any other mode of conveying thought qualifies for this freedom. *De lege lata* the freedom of opinion through the medium of broadcasting is not without certain restrictions which are set forth in the deed of concession granted to the Société Suisse de Radiodiffusion. These restrictions may be warranted by practical considerations, and it will be for the future legislation on broadcasting in Switzerland to embody them, if need be, into a logical system. Whether one interprets the freedom of the press literally like Burckhardt, or liberally like Mr. Baumann, the fact remains that before the adoption of Article 36*bis* of the Swiss Constitution the Confederation lacked the power to decide how broadcasting should be governed, at least as regards the programmes. By acting *contra constitutionem* it was in fact dealing with an emergency, and this undoubtedly is a weighty extenuating circumstance. But it is the mission and the honour of the rising generation of lawyers never to capitulate to expediency when a principle is at stake, and to keep their seniors, bogged down in the shifting sands of compromise, mindful of the immutable postulates of the profession. This is a task of which Mr. Baumann has acquitted himself outspokenly but tactfully, in a fortunate combination of two qualities that are all too often mutually exclusive.

B. M.

The Copyright Act, 1956, by D. H. Mervyn Davies. London. Sweet & Maxwell Ltd., 1957. (One bound volume of 135 pages, price 21/-)

Copyright and Performing Rights, by W. J. Leaper. London, Stevens & Sons Ltd., 1957. (One bound volume of 231 pages, price 25/-)

The Law of Copyright, by J. P. Eddy, Q. C. London. Butterworth & Co. (Publishers) Ltd., 1957. (One bound volume of 356 pages and unbound supplement of 46 pages, price for volume and supplement 40/-)

These three books are all intended as guides to the new British Copyright Act but there are considerable differences in the form and extent of the guidance to be derived from them.

The Copyright Act, 1956 by Mr. D. H. Mervyn Davies is the simplest of the three books as it consists of a general introduction in 24 pages followed by the text of the Act annotated with references to decided cases and other statutory provisions, tables of cases and statutes, and a comparative table showing the relation of sections in the 1956 Act to those in the Copyright Act 1911. The book will be of use to readers who wish to have a very brief introduction to the law of copyright in the United Kingdom coupled with the text of the new Act in handy form for quick reference.

Copyright and Performing Rights by Mr. W. J. Leaper is written in narrative form. The provisions of the 1956 Act are paraphrased and incorporated in the narrative with references to the debates on the Copyright Bill in Parliament and to cases decided under the 1911 Act. Mr. Leaper states that his book is intended to serve as a practical guide and it will be most useful to the reader who is looking for general information on the law of copyright. The book will be of less use to the practising lawyer who is concerned with points of detail as it does not contain the text of the 1956 Act or any tables to show on what pages the various sections of the Act are dealt with or how these sections are related to those in the 1911 Act.

The title *Copyright and Performing Rights* and the opening paragraphs on page 3 of the book are a little misleading as they may give the impression that copyright and performing right are separate rights, but sections 1 and 2 of the 1956 Act make it abundantly clear that the performing right in literary, dramatic and musical works is an integral part of the copyright in those works. On page 103 Mr. Leaper suggests that the right of the maker of a sound recording under section 12 (5) (c) of the Act is limited to its use for *sound* broadcasting, but this suggestion seems to overlook section 48 (2) of the Act which provides that references in the Act to broadcasting cover both sound broadcasting and television.

The chapter on *International Conventions* (page 211) seems to be somewhat unbalanced. The provisions of the Brussels Copyright Convention, 1948, are dealt with shortly on one page but seven pages are devoted to the

Universal Copyright Convention, 1952, and readers may well be given the incorrect impression that the Brussels Copyright Convention has been largely superseded. It is, of course, true that the Universal Copyright Convention is of value in providing a minimum standard of protection to which the United States could subscribe but, as EBU members well know, the much higher standard of protection afforded by the Brussels Copyright Convention still remains operative in the many European and other countries which are members of the Berne Copyright Union.

The Law of Copyright by Mr. J. P. Eddy, Q. C., has been issued in Butterworths Annotated Legislation Service and it well maintains the high reputation of that Service for accuracy and completeness. Mr. Eddy has written a very comprehensive introduction to and description of the law of copyright which runs to some 200 pages and he quotes extensively from the report of the Copyright Committee and the debates on the Copyright Bill in Parliament. The book also includes the text of the 1956 Act with full annotations, the texts of the Brussels and Universal Copyright Conventions, and a table showing how the 1956 Act has replaced the provisions of earlier Acts from 1862 onwards.

The book contains so much useful material that it might seem ungrateful to suggest that some of the information is a little out of place in a text book of this kind, for example the statements on page 123 that the BBC Library of commercial gramophone records weighs something like fifty tons and that the smallest record in the Library measures only one and five sixteenths of an inch in diameter.

Mr. Eddy's book contains a useful chapter on *Copyright in Other Countries* (page 198). The position in the countries of the British Commonwealth and in the

United States is described in some detail but unfortunately the section dealing with India is already out of date as it does not mention the new Indian Copyright Act, 1957. The section entitled *Copyright in Europe* is a little disappointing as it merely consists of a list of those European countries which have signed the Brussels and Universal Copyright Conventions.

There are two general criticisms which apply to all three of the books. The first is that they were published before the various orders and regulations made under the 1956 Act had been issued, such as the order bringing the Act into operation on 1st June 1957 and the order applying the Act to works published in countries of the Berne Copyright Union. In the case of Mr. Eddy's book this defect has now been rectified by the publication of a Supplement containing the text of the orders and regulations issued up to November 1957.

The second criticism from the point of view of the practising lawyer is that the three books do not contain much in the way of interpretative comment by the authors, such as the opinion expressed on page 111 of Mr. Leaper's book that the practice of monitoring broadcast programmes by the making of recordings for the use of commercial advertisers is an infringement of the rights of the broadcasting organisation under section 14 (4) of the Act.

A new edition of the best known text book, Copinger and Skone James on the *Law of Copyright*, has not yet been published but it is expected shortly. The later date of publication will have the advantage of making it possible to include the relevant orders and regulations in the same volume as the Act and it is also to be hoped that Mr. Skone James will be able to give some valuable guidance on the interpretation of the more complicated sections of the Act.

E. C. ROBBINS.

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